



AMENDED LEGISLATIVE COMMITTEE MEETING

AGENDA

**Doubletree Hotel
222 North Vineyard Avenue
Ontario, CA 91764**

May 18, 2011

Wednesday, May 18, 2011 – 3:30 pm – 4:30 pm

7.0 Review and Approve Minutes:

➤ March 10, 2011

7.1 Adopt/Modify Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2011-2012 Legislative Session.

Assembly Bills

AB 661

AB 888

Senate Bills

SB 161

SB 538

SB 541

SB 544

SB 747

7.2 Information Only: Federal Legislation of Interest to the Board

7.3 Public Comment for Items Not on the Agenda

NOTICE:

All times are approximate and subject to change. Items may be taken out of order to maintain a quorum, accommodate a speaker, or for convenience. The meeting may be canceled without notice. For verification of the meeting, call (916) 574-7600 or access the Board's Web Site at <http://www.rn.ca.gov>. Action may be taken on any item listed on this agenda, including information only items.

Public comments will be taken on agenda items at the time the item is heard. Total time allocated for public comment may be limited.

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the Administration Unit at (916) 574-7600 or email webmasterbrn@dca.ca.gov or send a written request to the Board of Registered Nursing Office at 1625 North Market #N-217, Sacramento, CA 95834. (Hearing impaired: California Relay Service: TDD phone # (916) 322-1700). Providing your request at least five (5) business days before the meeting will help to ensure the availability of the requested accommodation.

Board members who are not members of this committee may attend meetings as observers only, and may not participate or vote. Action may be taken on any item listed on this agenda, including information only items. Items may be taken out of order for convenience, to accommodate speakers, or maintain a quorum.



**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MEETING MINUTES**

DRAFT

DATE: March 10, 2011

TIME: 2:30 p.m. – 3:30 p.m.

LOCATION: DCA Headquarters
1625 N. Market Boulevard
Hearing Room, S-102
Sacramento, California 95834

MEMBERS PRESENT: Richard Rice, Chair
Dian Harrison
Douglas Hoffner
Erin Niemela

STAFF PRESENT: Louise Bailey, Executive Officer
Kay Weinkam, NEC, Staff Liaison

The meeting was called to order at 2:30 p.m. by the chairperson.

- 7.0 Review and Approve Minutes:
Ø January 5, 2011
The minutes of January 5, 2011, were approved.
- 7.1 Adopt/Modify Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2011-2012 Legislative Session.
- AB 661 Block: Public postsecondary education: San Diego Community College District: baccalaureate degree pilot program**
Committee Position: *Watch*
- SB 161 Huff: Schools: Emergency Medical Assistance: administration of epilepsy medication**
Committee Position: *Oppose*
- SB 747 Kehoe: Continuing Education: Lesbian, gay, bisexual, and transgender patients**
Committee Position: *Watch*

7.2 Information Only: Federal Legislation of Interest to the Board

7.3 Public Comment for Items Not on the Agenda

The meeting was adjourned at 3:00 p.m.

Submitted by: _____
Kay Weinkam, M.S., RN, CNS

Approved by: _____
Richard L. Rice, Chair



**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
MEETING MINUTES**

DATE: January 5, 2011

TIME: 2:30 pm – 3:30 pm

LOCATION: Hilton San Diego Mission Valley
901 Camino del Rio South
San Diego, CA 92108

MEMBERS PRESENT: Dian Harrison, Chair
Kathrine Ware

STAFF PRESENT: Louise Bailey, Executive Officer

The meeting was called to order at 2:30 pm by the chairperson.

7.0 Review and Approve Minutes:

➤ November 16, 2010

The minutes of November 16, 2010 were approved.

7.1 2009-2010 Goals and Objectives: Summary of Accomplishments

7.2 2009-2010 Legislative Session Summary

7.3 2011-2012 Goals and Objectives for the two year Legislative Session

The 2011-2012 Goals and Objectives were approved.

7.4 Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2011-2012 Legislative Session.

7.5 **PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA**

The California Nurses Association brought to the Committee's attention that they were sponsoring AB 30, (Hayashi), relative to violence in the workplace.

The California Association for Nurse Practitioners and the California Association of Nurse Anesthetists inquired if the Board would add Federal Bills of interest to the Legislative packet.

The meeting was adjourned at 3:00 pm.

Submitted by: Louise R. Bailey
Louise Bailey, M.Ed., RN, Executive Officer

Approved by: Dian Harrison L.L.
Dian Harrison, Chair

BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 7.1

DATE: May 18, 2011

ACTION REQUESTED: Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2011-2012 Legislative Session.

REQUESTED BY: Louise Bailey, MEd, RN
Executive Officer

BACKGROUND:	<u>Assembly Bills</u>	<u>Senate Bills</u>
	AB 661	SB 161
	AB 887	SB 538
		SB 541
		SB 544
		SB 747

NEXT STEP: Place on Board Agenda

**FINANCIAL IMPLICATIONS,
IF ANY:** None

PERSON TO CONTACT: Kay Weinkam, M.S., RN
Nursing Education Consultant and Legislative Liaison
(916) 574-7680

**BOARD OF REGISTERED NURSING
ASSEMBLY BILLS 2011
May 18, 2011**

BILL #	AUTHOR	SUBJECT	COMM POSITION	BOARD POSITION	BILL STATUS
AB 30	Hayashi	Health facilities: security plans	--	Support	Assembly Appropriation
AB 40	Yamada	Elder abuse: reporting	--	Watch	Assembly Public Safety
AB 661	Block	Public postsecondary education: community college districts: baccalaureate degree pilot program	Watch	Watch	Assembly Higher Education
AB 675	Hagman	Continuing education	--	Oppose	Assembly BP&CP
AB 888	Pan	Pupil health: School Medication Authorization Task Force	--	--	Assembly Education
AB 958	Berryhill	Regulatory boards: limitations periods	--	--	Assembly BP&CP

Bold denotes a bill which was amended subsequent to the Board's position or is a new bill for Board consideration.

**BOARD OF REGISTERED NURSING
SENATE BILLS 2011
May 18, 2011**

BILL #	AUTHOR	SUBJECT	COMM POSITION	BOARD POSITION	BILL STATUS
SB 65	Strickland	Pupil health: prescription pancreatic enzymes	--	Watch	Senate Health
SB 100	Price	Healing Arts	--	Watch	Senate Appropriation
SB 161	Huff	Schools: Emergency Medical Assistance: administration of epilepsy medication	Oppose	Oppose	Senate Appropriation
SB 393	Hernandez	Medical homes	--	--	Senate Health
SB 538	Price	Nursing	--	Support	Senate Appropriation
SB 541	Price	Regulatory boards: expert consultants	--	--	Senate Appropriation
SB 544	Price	Professions & Vocations: regulatory boards	--	--	Senate BP&ED
SB 747	Kehoe	Continuing education: lesbian, gay, bisexual, and transgender patients	Watch	Oppose	Senate Appropriation
SB 943	Price	Healing Arts	--	Support	Senate Appropriation

Bold denotes a bill which was amended subsequent to the Board's position or is a new bill for Board consideration.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 18, 2011
BILL ANALYSIS**

AUTHOR:	Block	BILL NUMBER:	AB 661
SPONSOR:	America Nurses Association California	BILL STATUS:	Assembly Higher Ed
SUBJECT:	Public postsecondary education: community college districts: baccalaureate degree pilot program	DATE LAST AMENDED:	4/28/11

SUMMARY:

Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Additionally, existing law establishes community college districts, administered by governing boards, throughout the state, and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts. Lastly, existing law requires community colleges to offer instruction through, but not beyond, the 2nd year of college and authorizes community colleges to grant associate in arts and science degrees. This bill would add an Article to the Education Code, relating to public postsecondary education.

ANALYSIS:

This bill would authorize the San Diego Community College District to establish baccalaureate degree pilot programs. This bill would also require a baccalaureate degree pilot program to expire 8 years after the establishment of the program.

If the San Diego Community College District establishes a baccalaureate program, this bill would require the district to meet specified requirements, including, but not limited to, offering baccalaureate degrees in a limited number of fields of study, and submitting a report to the Legislature within one year prior to the expiration of the baccalaureate degree pilot program that would evaluate specified factors.

This bill would also require, if the San Diego Community College District establishes a baccalaureate program, the governing board of the district to perform certain functions and would authorize the governing board to charge baccalaureate degree-seeking students a fee for enrollment in specified courses, which would be required to be expended for the purpose of providing a pilot program.

This bill would also authorize the governing board of the district to enter into agreements with local businesses and agencies to provide educational services to students participating in a baccalaureate degree pilot program.

Amended analysis of 4/28/11:

This bill amendment deletes San Diego Community College from the provisions in the bill and authorizes the Grossmont-Cuyamaca Community College District and the San Mateo County Community College District to establish one baccalaureate degree pilot program per campus.

BOARD POSITION: Watch (4/13/11)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/11)

SUPPORT:

American Nurses Association California
San Mateo County Community College District
Grossmont-Cuyamaca Community College District
Kaiser
Scripps

OPPOSE:

Faculty Association of California

AMENDED IN ASSEMBLY APRIL 28, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 661

Introduced by Assembly Member Block
(Coauthor: Assembly Member Hill)

February 16, 2011

An act to add Article 3 (commencing with Section 78040) to Chapter 1 of Part 48 of Division 7 of Title 3 of the Education Code, relating to public postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 661, as amended, Block. Public postsecondary education: ~~San Diego Community College District~~: *community college districts*: baccalaureate degree pilot program.

Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts, administered by governing boards, throughout the state, and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts.

Existing law requires community colleges to offer instruction through, but not beyond, the 2nd year of college and authorizes community colleges to grant associate in arts and science degrees.

This bill would authorize ~~the San Diego Community College District~~ *the Grossmont-Cuyamaca Community College District and the San Mateo County Community College District* to establish ~~one~~ baccalaureate degree pilot ~~programs~~ *program per campus*. This bill would require a baccalaureate degree pilot program to expire 8 years after the

establishment of the program. If ~~the San Diego Community College District establishes one or more of the authorized districts~~ establish a baccalaureate program, this bill would require the ~~district~~ *districts* to meet specified requirements, including, but not limited to, offering baccalaureate degrees in a limited number of fields of study, and submitting a report to the Legislature within one year prior to the expiration of the baccalaureate degree pilot program that would evaluate specified factors.

This bill would also require, if ~~the San Diego Community College District establishes one or more of the authorized districts~~ establish a baccalaureate program, the governing ~~board~~ *boards* of the ~~district~~ *districts* to perform certain functions and would authorize the governing ~~board~~ *boards* to charge baccalaureate degree-seeking students a fee for enrollment in specified courses, which would be required to be expended for the purpose of providing a pilot program. This bill would authorize the governing ~~board~~ *boards* of the ~~district~~ *districts* to enter into agreements with local businesses and agencies to provide educational services to students participating in a baccalaureate degree pilot program.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) For nearly 50 years, California's higher education system
- 4 has been the envy of the world. The University of California and
- 5 the California State University campuses have produced
- 6 groundbreaking research and millions of professionals. The
- 7 California Community Colleges are an often overlooked, yet
- 8 essential, part of this system.
- 9 (b) California needs to produce one million more baccalaureate
- 10 degrees than the state currently does to remain economically
- 11 competitive in the coming decades.
- 12 (c) It is time to change community colleges in a way that will
- 13 address job shortages in California's most vital employment areas
- 14 that require baccalaureate degrees. Community colleges can help
- 15 fill the gaps in the system by granting baccalaureate degrees for a
- 16 limited number of specific areas in order to meet a growing demand
- 17 for workforce need.

(d) These baccalaureate programs will be limited and will not detract from the community colleges' mission to advance California's economic growth and global competitiveness through education, training, and services that contribute to continuous workforce improvement, nor will the programs unnecessarily duplicate similar programs offered by nearby schools.

(e) Community colleges can provide a quality baccalaureate education with lower costs to their students than a traditional four-year university, enabling lower income and part-time local students to earn the baccalaureate degree needed for new job opportunities and promotion.

(f) Seventeen other states, from Florida to Hawaii, already allow their community colleges to offer baccalaureate degrees. California is one of the most innovative states in the nation, and the California Community Colleges will use that same innovative spirit to produce more health, biotechnology, and other needed professionals.

(g) The purpose of the baccalaureate degree pilot program is to promote economic development by preparing people for occupations that are in demand and require a baccalaureate degree.

SEC. 2. Article 3 (commencing with Section 78040) is added to Chapter 1 of Part 48 of Division 7 of Title 3 of the Education Code, to read:

Article 3. Baccalaureate Degree Pilot Program

78040. For the purposes of this article, ~~“district” means the San Diego Community College District~~ *“districts” means the Grossmont-Cuyamaca Community College District and the San Mateo County Community College District.* The ~~district~~ *districts* may establish baccalaureate degree pilot programs pursuant to Section 78041.

78041. Notwithstanding Section 66010.4, the ~~San Diego Community College District~~ *districts* may establish baccalaureate degree pilot programs that meet all of the eligibility requirements set forth in Section 78042. A pilot program established pursuant to this section shall expire eight years after the establishment of the program. For purposes of this section, a pilot program is established when the first class of students begins the program.

78042. (a) The ~~district~~ *districts* shall seek accreditation as a baccalaureate degree granting college.

(b) ~~The district~~ *districts* shall maintain the primary mission of the California Community Colleges specified in paragraph (3) of subdivision (a) of Section 66010.4. ~~The district~~ *districts*, as part of the baccalaureate degree pilot program, shall have the additional mission to provide high-quality undergraduate education at an affordable price for students and the state.

~~(e) The district shall offer baccalaureate degrees in a limited~~

(c) *The districts shall offer one baccalaureate degree per campus in a limited number of fields of study subject to the following requirements, as determined by the governing board of the district boards of the districts:*

(1) ~~The district~~ *districts* shall identify and document unmet workforce needs in the subject areas of the baccalaureate degrees to be offered and offer baccalaureate degrees in those subject areas possessing unmet workforce needs in the local community.

(2) The baccalaureate degree pilot program shall not unnecessarily duplicate similar programs offered by nearby public postsecondary educational institutions.

(3) ~~The district~~ *districts* shall have the expertise, resources, and student interest to offer a quality baccalaureate degree in the chosen field of study.

(d) ~~The district~~ *districts* shall maintain separate records for students who are enrolled in courses classified in the upper division and lower division of a baccalaureate program. A student shall be reported as a community college student for enrollment in a lower division course and as a baccalaureate degree program student for enrollment in an upper division course.

~~(e) The governing board of the district~~ *boards of the districts* shall do all of the following:

(1) Determine the appropriate governance system for the baccalaureate degree pilot program.

(2) Make decisions regarding the baccalaureate degree pilot program's curriculum, faculty, and facilities.

(3) Establish the level of matriculation, tuition, and other appropriate costs for students enrolled in a baccalaureate degree program.

(f) (1) ~~The governing board of the district~~ *boards of the districts* may charge baccalaureate degree-seeking students a fee, of an amount to be determined by the governing ~~board~~ *boards*, that covers the additional costs imposed by providing a baccalaureate

1 degree pilot program, for enrollment in courses that are not transfer
2 core curriculum courses, as defined in Section 66720.

3 (2) All fees collected pursuant to this subdivision shall be
4 deposited in the designated fund of the ~~district~~ *districts* in
5 accordance with the California Community Colleges Budget and
6 Accounting Manual, and shall be expended for the purpose of
7 providing a baccalaureate degree pilot program.

8 (g) The governing ~~board of the district~~ *boards of the districts*
9 may enter into agreements with local businesses and agencies to
10 provide educational services to students participating in the
11 baccalaureate degree pilot program.

12 (h) ~~The district shall submit a report~~ *districts shall submit reports*
13 to the Legislature within one year prior to the expiration of the
14 baccalaureate degree pilot program pursuant to Section 78041.
15 The report shall examine the success of the baccalaureate degree
16 pilot program by evaluating all of the following factors:

17 (1) The percentage of students who complete a baccalaureate
18 degree, calculated by dividing the number of students who graduate
19 from the baccalaureate degree pilot program by the number of
20 students who enrolled in the program.

21 (2) The extent to which the baccalaureate degree pilot program
22 is self-supporting, such that the student fees charged pursuant to
23 subdivision (f) cover the costs of the program.

24 (3) Whether there is a problem with finding and paying
25 instructors for the baccalaureate degree pilot program.

26 (4) Whether there was a decline in enrollment in the California
27 State University and the University of California as a result of the
28 baccalaureate degree pilot program.

29 (5) The number of students who received jobs in the area in the
30 field of study of their baccalaureate degree.

31 (6) The amount of student fees charged pursuant to subdivision
32 (f) compared to the amount of student fees charged for courses at
33 the California State University and the University of California.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 18, 2011
BILL ANALYSIS**

AUTHOR:	Pan	BILL NUMBER:	AB 888
SPONSOR:	Pan	BILL STATUS:	Assembly Education
SUBJECT:	Pupil health: School Medication Authorization Task Force	DATE LAST AMENDED:	3/31/11

SUMMARY:

Existing law requires the governing board of a school district to give diligent care to the health and physical development of pupils, and authorizes a governing board to employ properly certified persons for the work. This bill would add a section to the Education Code, relating to pupil health.

ANALYSIS:

This bill would establish the School Medication Authorization Task Force, consisting of 10 members who would be appointed by, and serve at the pleasure of, the Superintendent of Public Instruction. The bill would require the task force to provide specified advice regarding the administration of emergency medication to a pupil on a school campus and establish training and supervision standards regarding the administration of medical care in a school setting. The bill would require the task force to follow prescribed procedures relating to its operation. The 10 member task force would be comprised of representation from the following:

- Department of Education (2)
- Labor Organization that represents school employees
- School Administration
- California School Nurses Organization
- **Board of Registered Nursing**
- Pediatricians (2)
- California State Board of Pharmacy
- American Nurses Association California

The members on the task force, among other things, would not be entitled to any compensation or reimbursement, and would serve as a volunteer.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 888

Introduced by Assembly Member Pan

February 17, 2011

~~An act to amend Section 51002 of the Education Code, relating to pupil instruction.~~ *An act to add Section 49414.6 to the Education Code, relating to pupil health.*

LEGISLATIVE COUNSEL'S DIGEST

AB 888, as amended, Pan. ~~Pupil instruction: educational programs: health: School Medication Authorization Task Force.~~

Existing law requires the governing board of a school district to give diligent care to the health and physical development of pupils, and authorizes a governing board to employ properly certified persons for the work.

This bill would establish the School Medication Authorization Task Force, consisting of 10 members who would be appointed by, and serve at the pleasure of, the Superintendent of Public Instruction. The bill would require the task force to provide specified advice regarding the administration of emergency medication to a pupil on a school campus and establish training and supervision standards regarding the administration of medical care in a school setting. The bill would require the task force to follow prescribed procedures relating to its operation.

~~Existing law recognizes that there is a need to establish a common state curriculum for the public schools, and states the intent of the Legislature to set broad minimum standards and guidelines for educational programs and to encourage local districts to develop~~

programs that will best fit the needs and interests of the pupils, pursuant to stated philosophy, goals, and objectives.

~~This bill would make technical, nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 49414.6 is added to the Education Code,
2 to read:
3 49414.6. (a) The School Medication Authorization Task Force
4 is hereby established, which shall consist of 10 members appointed
5 by the Superintendent as follows:
6 (1) Two members shall be recommended by the department.
7 (2) One member shall be a member of a labor organization that
8 represents school employees.
9 (3) One member shall be a school administrator.
10 (4) One member shall be a representative of the California
11 School Nurses Organization.
12 (5) One member shall be a representative of the Board of
13 Registered Nursing.
14 (6) Two members shall be pediatricians.
15 (7) One member shall be a representative of the California State
16 Board of Pharmacy.
17 (8) One member shall be a representative of the American
18 Nurses Association California.
19 (b) Representatives from other organizations or agencies with
20 expertise relating to the administration of appropriate emergency
21 medications may be included in the discussions of the task force,
22 but shall not be permitted to vote.
23 (c) The task force shall perform both of the following functions:
24 (1) Provide advice as to whether an emergency medication
25 should be administered to a pupil on a school campus by a school
26 employee who is either licensed to administer medical care or is
27 unlicensed with appropriate medical training.
28 (2) Establish training and supervision standards regarding the
29 administration of medical care in a school setting. Training and
30 supervision standards for the administration of an emergency
31 medication shall be completed within six months after advice

1 regarding who should administer that medication is provided
2 pursuant to paragraph (1), and shall be reviewed and revised as
3 necessary every three years thereafter.

4 (d) The task force shall follow all of the following procedures
5 relating to its operation:

6 (1) Members of the task force shall not be entitled to
7 compensation or reimbursement and shall serve as volunteers.

8 (2) The task force shall elect one of its members to serve as
9 chairperson.

10 (3) The task force shall conduct meetings during times and at
11 places chosen by the chairperson, or by a majority of the members
12 of the task force if the majority disagrees with the time or place
13 chosen by the chairperson.

14 (4) The task force may conduct its meetings through electronic
15 means if agreed to by a majority of the members.

16 (5) The task force shall not conduct business without the
17 presence of a quorum and a quorum shall consist of a majority of
18 the members.

19 (6) The approval of a majority of the members of the task force
20 present at the meeting shall be required to take an official action.

21 (7) The task force may adopt rules necessary for the operation
22 of the task force.

23 (8) The task force shall keep records of its meetings, and, upon
24 request, shall report on its actions on a yearly basis to
25 organizations and agencies participating in the task force pursuant
26 to subdivision (b).

27 (9) The members of the task force shall serve at the pleasure of
28 the Superintendent and if there is a vacancy on the task force, the
29 Superintendent shall make a new appointment that shall be
30 immediately effective.

31 (e) It is the intent of the Legislature that school districts and
32 appropriate state agencies assist the task force in the performance
33 of its duties and, to the extent permitted by applicable laws
34 regarding confidentiality, furnish information and advice to the
35 task force that is necessary to perform its duties.

36 ~~SECTION 1. Section 51002 of the Education Code is amended~~
37 ~~to read:~~

38 ~~51002. The Legislature hereby recognizes that, because of the~~
39 ~~common needs and interests of the citizens of this state and the~~
40 ~~nation, there is a need to establish a common state curriculum for~~

1 the public schools, but that, because of economic, geographic,
2 physical, political, and social diversity, there is a need for the
3 development of educational programs at the local level, with the
4 guidance of competent and experienced educators and citizens.
5 Therefore, it is the intent of the Legislature to set broad minimum
6 standards and guidelines for educational programs and to encourage
7 local districts to develop programs that will best fit the needs and
8 interests of the pupils, pursuant to stated philosophy, goals, and
9 objectives.

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**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 18, 2011
BILL ANALYSIS**

AUTHOR:	Huff	BILL NUMBER:	SB 161
SPONSOR:	Orange County Office of Education	BILL STATUS:	Senate APPR
SUBJECT:	Schools: Emergency Medical Assistance: administration of epilepsy medication	DATE LAST AMENDED:	4/25/11

SUMMARY:

Existing law provides that in the absence of a credentialed school nurse or other licensed nurse onsite at the school, a school district is authorized to provide school personnel with voluntary medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia. This bill would add and repeal a section of the Education Code, relating to pupil health.

ANALYSIS:

This bill would authorize a school district to provide school employees with voluntary emergency medical training to provide, in the absence of a credentialed school nurse or other licensed nurse onsite at the school, emergency medical assistance to pupils with epilepsy suffering from seizures, in accordance with performance standards developed by specified entities. The bill would authorize the State Department of Public Health to approve the performance standards for distribution and make the standards available upon request.

The bill would allow a parent or guardian of a pupil with epilepsy who has been prescribed Diastat by the pupil's health care provider to request the pupil's school to have one or more of its employees receive voluntary training, as specified, in order to administer Diastat, as defined, in the event that the pupil suffers a seizure when a nurse is not available.

The bill would require a school that decides to train school employees to distribute an electronic notice, as specified, to all staff regarding the request. It would require that the training be conducted by one or more of the following: a physician, a credentialed school nurse, a registered nurse or a credentialed public health nurse.

The bill would repeal these provisions on January 1, 2017.

Amended analysis as of 3/09/11:

This bill amendment would change the authorization for a school district to provide school employees with voluntary emergency medical training to provide, in the absence of a credentialed school nurse or other licensed nurse onsite at the school. The emergency

medical assistance to pupils with epilepsy suffering from seizures would be provided in accordance with **performance guidelines** instead of **standards**. It would provide for the guidelines to be developed in cooperation with the State Department of Education, the California School Nurses Organization, the California Medical Association, and the American Academy of Pediatrics. The provision allowing the State Department of Public Health to approve performance standards would be deleted. Also, the physician assistant would be added to the list of persons who could conduct the training.

This amendment would also require the health care practitioner to include, in a written statement, the detailed information about seizure symptoms, including frequency, type, or length of seizures that identify when the administration of Diastat becomes necessary.

During the 2009-2010 Legislative Session, the board followed SB1051 that had similar provisions as SB161. The Board took an Oppose position and the bill was held in committee.

Amended analysis as of 4/25/11:

This bill amendment would permit the State Department of Education to include, on its Internet Web site, a clearinghouse of best practices in training nonmedical personnel in administering an emergency antiseizure medication. Before a training program could be placed on the clearinghouse of best practices, it would have to be approved by the Professional Advisory Board of the Epilepsy Foundations of Greater Los Angeles, San Diego County, and Northern California, in consultation with the Department.

This amendment also replaces the word "Diastat" with "emergency antiseizure medication" throughout the bill. It defines "emergency antiseizure medication" as diazepam rectal gel and emergency medications approved by the federal Food and Drug Administration for patients with epilepsy for the management of seizures by persons without the medical credentials.

This amendment would also permit Licensed Vocational Nurses to be involved in the health care needs of children in schools.

BOARD POSITION: Oppose (4/13/11)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Oppose (3/10/11)

SUPPORT:

Association of Regional Center Agencies
The California Association of Joint Powers Authorities (If Amended)
California Association of School Business Officials
California Association of Suburban School Districts
California School Boards Association
Democrats for Education Reform
Disability Rights California
Epilepsy Foundation, California

Health Officers Association of California
Humboldt County Office of Education
Kern County Superintendent of Schools
Los Angeles County Office of Education
Los Angeles Unified School district
Orange County Department of Education
Riverside County School Superintendents' Association
Riverside Unified School District
Saddleback Valley Unified School District
San Bernardino County District Advocates for Better Schools
Small School Districts' Association
35 individuals

OPPOSE:

American Nurses Association-California
California Labor Federation
The California Federation of Teachers
California Association for Nurse Practitioners
California Nurses Association
California School Employees Association
California School Nurses Organization
California School Employees Association
California Teachers Association
Laborers International Union of North America, Local 777
Service Employees International Union-Nurses
Alliance of California
United Nurses Associations of CA-Union of Health Care Professionals
United Teachers Los Angeles

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 9, 2011

SENATE BILL

No. 161

Introduced by Senator Huff
(Coauthor: Senator Rubio)
(Coauthor: Assembly Member Halderman)

February 2, 2011

An act to add and repeal Section 49414.7 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 161, as amended, Huff. Schools: emergency medical assistance: administration of epilepsy medication.

Existing law provides that in the absence of a credentialed school nurse or other licensed nurse onsite at the school, a school district is authorized to provide school personnel with voluntary medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia.

This bill would authorize a school district to provide school employees with voluntary emergency medical training to provide, in the absence of a credentialed school nurse or other licensed nurse onsite at the school, emergency medical assistance to pupils with epilepsy suffering from seizures, in accordance with guidelines developed by specified entities. The bill would allow a parent or guardian of a pupil with epilepsy who has been prescribed ~~Diastat~~ *an emergency antiseizure medication* by the pupil's health care provider, to request the pupil's school to have one or more of its employees receive voluntary training, as specified, in order to administer ~~Diastat~~ *the emergency antiseizure medication*, as defined, in the event that the pupil suffers a seizure when

a nurse is not available. The bill would require a school that ~~decides~~ *elects* to train school employees to distribute an electronic notice, as specified, to all staff regarding the request. *The bill would authorize the State Department of Education to include, on its Internet Web site, a clearinghouse of best practices in training nonmedical personnel in administering an emergency antiseizure medication pursuant to these provisions.* The bill would make various legislative findings and declarations and state the intent of the Legislature in enacting this measure. The bill would repeal these provisions on January 1, 2017.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) All individuals with exceptional needs have a right to
- 4 participate in a free appropriate public education, and that special
- 5 instruction and services for these individuals are needed in order
- 6 to ensure they have the right to an appropriate educational
- 7 opportunity to meet their unique needs in compliance with the
- 8 federal Individuals with Disabilities Education Act (20 U.S.C. Sec.
- 9 1400 et seq.).
- 10 ~~(2) The federal Food and Drug Administration has determined~~
- 11 ~~that Diastat is an emergency medication approved for~~
- 12 ~~administration by trained, nonmedical persons.~~
- 13 ~~(3) If all of the following specific circumstances are met, then~~
- 14 ~~the safety and welfare of a pupil may be compromised,~~
- 15 ~~necessitating the authorization of nonmedical school staff, who~~
- 16 ~~have volunteered and been trained, to administer Diastat to a pupil:~~
- 17 ~~(A) A pupil's health care provider states that Diastat must be~~
- 18 ~~administered within a timeframe that a licensed medical person or~~
- 19 ~~a paramedic cannot reasonably be expected to respond and be~~
- 20 ~~available.~~
- 21 ~~(B) Failure to administer Diastat in a timely manner can~~
- 22 ~~reasonably be expected to result in death or permanent physical~~
- 23 ~~injury to the pupil.~~
- 24 ~~(C) Diastat and the procedure for its administration has been~~
- 25 ~~found to be safe from harmful side effects by competent personnel.~~

1 (2) *The safety and welfare of a pupil with epilepsy is*
2 *compromised without immediate access to an emergency*
3 *antiseizure medication and, therefore, clarification is needed to*
4 *ensure that nonmedical school staff, who have volunteered and*
5 *have been trained in its correct administration, may administer*
6 *an emergency antiseizure medication.*

7 (3) *As used in this section, “immediate access” means the time*
8 *period that the pupil’s health care provider states that an*
9 *antiseizure medication must be administered, provided that it is*
10 *within the timeframe that a licensed medical person or paramedic*
11 *can reasonably be expected to respond and be available.*

12 (b) It is the intent of the Legislature that individuals with
13 exceptional needs and children with disabilities under the federal
14 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101
15 et seq.) and Section 504 of the federal Rehabilitation Act of 1973
16 (29 U.S.C. Sec. 794) shall have a right to an appropriate
17 educational opportunity to meet their unique needs, and that
18 children suffering from seizures due to epilepsy have the right to
19 appropriate programs and services that are designed to meet their
20 unique needs. In order to meet that goal, it is the intent of the
21 Legislature to authorize nurses to train and supervise employees
22 of school districts and county offices of education to administer
23 ~~Diastat~~ *an emergency antiseizure medication* to children with
24 epilepsy in the public schools. The American Academy of
25 Pediatrics and the Epilepsy Foundation of America support training
26 of school employees to administer ~~Diastat~~ *an emergency antiseizure*
27 *medication* and believe that ~~Diastat~~ *an emergency antiseizure*
28 *medication* may be safely and effectively administered by trained
29 school employees. The Legislature further finds and declares that,
30 in the absence of a credentialed school nurse or other licensed
31 nurse onsite at the school, it is in the best interest of the health and
32 safety of children to allow trained school employees to administer
33 ~~Diastat~~ *an emergency antiseizure medication* to pupils in public
34 schools.

35 SEC. 2. Section 49414.7 is added to the Education Code, to
36 read:

37 49414.7. (a) It is the intent of the Legislature that, whenever
38 possible, ~~Diastat~~ *an emergency antiseizure medication* should be
39 administered by a school nurse *or licensed vocational nurse* who
40 has been trained in its administration.

(b) Notwithstanding Sections 2052 and 2732 of the Business and Professions Code, in the absence of a credentialed school nurse or other licensed nurse onsite at the school, a school district may provide school employees with voluntary emergency medical training to provide emergency medical assistance to pupils with epilepsy suffering from seizures. A school employee with voluntary emergency medical training shall provide this emergency medical assistance in accordance with the guidelines established using a training plan approved on the department's Internet Web site pursuant to subdivision ~~(k)~~ (m), and the performance instructions set forth by the licensed health care provider of the pupil. A school employee who does not volunteer or who has not been trained pursuant to subdivision ~~(k)~~ (m) shall not be required to provide emergency medical assistance pursuant to this section.

(c) If a pupil with epilepsy has been prescribed ~~Diastat~~ *an emergency antiseizure medication* by his or her health care provider, the pupil's parent or guardian may request the pupil's school to have one or more of its employees receive training pursuant to this section in the administration of ~~Diastat~~ *an emergency antiseizure medication* in the event that the pupil suffers a seizure when a nurse is not available.

(d) Pursuant to Section 504 of the federal Rehabilitation Act of 1973, as amended, (29 U.S.C. Sec. 794), upon receipt of the parent's or guardian's request pursuant to subdivision (c), the school shall notify the parent or guardian that his or her child may qualify for services or accommodations under the Section 504 plan, assist the parent or guardian with the exploration of that option, including, but not limited to, the development of a seizure action plan in accordance with the parent's or guardian's direction of that option, and encourage the parent or guardian to adopt that option if it is determined that the child is eligible for a Section 504 plan.

(e) The school may ask the parent or guardian to sign a notice verifying that the parent or guardian was given information about Section 504 of the federal Rehabilitation Act of 1973, and that the parent or guardian understands that it is his or her right to request a Section 504 plan at any time.

(f) If the parent or guardian does not choose to have the pupil assessed for a Section 504 plan, the school may create an individualized health plan, seizure action plan, or other appropriate

1 health plan designed to acknowledge and prepare for the child's
2 health care needs in school. The plan may include the involvement
3 of trained volunteer school employees *or a licensed vocational*
4 *nurse*.

5 ~~(g) If a school decides to train school employees pursuant to~~
6 ~~this section, the school shall distribute an electronic notice to all~~
7 ~~staff that states all of the following:~~

8 ~~(1) The notice is a request for volunteers to administer Diastat~~
9 ~~to a pupil experiencing a severe epileptic seizure, in the absence~~
10 ~~of a school nurse.~~

11 ~~(2) Diastat is an FDA-approved, predosed, rectally administered~~
12 ~~gel that reduces the severity of epileptic seizures.~~

13 ~~(3) A volunteer will receive training from a licensed health~~
14 ~~professional regarding the administration of Diastat.~~

15 ~~(4) Any agreement by an employee to administer Diastat is~~
16 ~~voluntary, and no employee of the school or district shall directly~~
17 ~~or indirectly use or attempt to use his or her authority or influence~~
18 ~~for the purpose of intimidating, threatening, coercing, or attempting~~
19 ~~to intimidate, threaten, or coerce, any staff member who does not~~
20 ~~choose to volunteer.~~

21 ~~(g) If a school elects to train employees pursuant to this section,~~
22 ~~the school shall ensure the following:~~

23 ~~(1) A volunteer receives training from a licensed health care~~
24 ~~professional regarding the administration of an emergency~~
25 ~~antiseizure medication. A staff member who has completed training~~
26 ~~shall, if he or she has not administered an emergency antiseizure~~
27 ~~medication within the prior two years and there is a pupil enrolled~~
28 ~~in the school who may need the administration of an antiseizure~~
29 ~~medication, attend a new training program to retain the ability to~~
30 ~~administer an emergency antiseizure medication.~~

31 ~~(2) Any agreement by an employee to administer an emergency~~
32 ~~antiseizure medication is voluntary, and no employee of the school~~
33 ~~or school district shall directly or indirectly use or attempt to use~~
34 ~~his or her authority or influence for the purpose of intimidating,~~
35 ~~threatening, coercing, or attempting to intimidate, threaten, or~~
36 ~~coerce any staff member who does not choose to volunteer,~~
37 ~~including, but not limited to, direct contact with the employee.~~

38 ~~(3) Any employee who volunteers pursuant to this section may~~
39 ~~rescind his or her offer to administer an emergency antiseizure~~
40 ~~medication up to three days after the completion of the training.~~

1 After that time, a volunteer may rescind his or her offer to
2 administer an emergency antiseizure medication with a two-week
3 notice, or until a new individual health plan or Section 504 plan
4 has been developed for an affected pupil, whichever is less.

5 (4) The school shall distribute an electronic notice to all staff
6 that states the following information in bold print:

7 (A) A description of the volunteer request, stating that the
8 request is for volunteers to administer an emergency antiseizure
9 medication to a pupil experiencing a severe epileptic seizure, in
10 the absence of a school nurse, and that this emergency antiseizure
11 medication is an FDA-approved, predosed, rectally administered
12 gel that reduces the severity of epileptic seizures.

13 (B) A description of the training that the volunteer will receive
14 pursuant to paragraph (1).

15 (C) A description of the voluntary nature of the volunteer
16 program, which includes the information described in paragraph
17 (2).

18 (D) The volunteer recision timelines described in paragraph
19 (3).

20 (h) An employee who volunteers pursuant to this section shall
21 not be required to administer an emergency antiseizure medication
22 until completion of the training program adopted by the school
23 and documentation of completion is recorded in his or her
24 personnel file.

25 (i) If a school elects to participate pursuant to this section, the
26 school shall ensure that each volunteer will be provided defense
27 and indemnification by the school, in accordance with Division
28 3.6 (commencing with Section 810) of Title 1 of the Government
29 Code. This information shall be reduced to writing, provided to
30 the volunteer, and retained in the volunteer's personnel file.

31 ~~(h)~~

32 (j) If there are no volunteers, then the school shall renotify the
33 pupil's parent or guardian of the option to be assessed for services
34 and accommodations guaranteed under Section 504 of the federal
35 Rehabilitation Act of 1973.

36 ~~(i) A school that chooses~~

37 (k) A school that elects to participate pursuant to this section
38 shall have in place a school plan that shall include, but not be
39 limited to, all of the following:

1 (1) Identification of existing licensed staff within the district or
2 region who could be trained in the administration of ~~Diastat an~~
3 *emergency antiseizure medication* and could be available to
4 respond to an emergency need to administer ~~Diastat an emergency~~
5 *antiseizure medication*. The school shall consult with the school
6 district or county office of education to obtain this information.

7 (2) Identification of pupils who may require the administration
8 of ~~Diastat an emergency antiseizure medication~~.

9 (3) Written authorization from the parent or guardian for a
10 nonmedical school employee to administer ~~Diastat an emergency~~
11 *antiseizure medication*.

12 (4) The requirement that the parent or guardian notify the school
13 if the pupil has had ~~Diastat an emergency antiseizure medication~~
14 administered within the past four hours on a schoolday.

15 (5) Notification of the parent or guardian that ~~Diastat an~~
16 *emergency antiseizure medication* has been administered.

17 (6) A written statement from the pupil's health care practitioner
18 that shall include, but not be limited to, all of the following:

19 (A) The pupil's name.

20 (B) The name and purpose of the medication.

21 (C) The prescribed dosage.

22 (D) Detailed seizure symptoms, including frequency, type, or
23 length of seizures that identify when the administration of ~~Diastat~~
24 *an emergency antiseizure medication* becomes necessary.

25 (E) The method of administration.

26 (F) The frequency with which the medication may be
27 administered.

28 (G) The circumstances under which the medication may be
29 administered.

30 (H) Any potential adverse responses by the pupil and
31 recommended mitigation actions, including when to call emergency
32 services.

33 (I) A protocol for observing the pupil after a seizure, including,
34 but not limited to, whether the pupil should rest in the school office,
35 whether the pupil may return to class, and the length of time the
36 pupil should be under direct observation.

37 (J) *Following a seizure, the pupil's parent and guardian and*
38 *the school nurse shall be contacted to continue the observation*
39 *plan as established in subparagraph (I).*

40 (j) ~~A school that chooses~~

(l) *A school that elects to allow volunteers to administer ~~Diastat~~ an emergency antiseizure medication shall compensate a volunteer when the administration of ~~Diastat~~ an emergency antiseizure medication and subsequent monitoring of a pupil requires a volunteer to work beyond his or her normally scheduled hours.*

~~(k)~~

(m) (1) The Legislature encourages the Epilepsy Foundation of America to develop guidelines for the training and supervision of school employees in providing emergency medical assistance to pupils with epilepsy suffering from seizures. The guidelines may be developed in cooperation with the State Department of Education, the California School Nurses Organization, the California Medical Association, and the American Academy of Pediatrics. *Upon development of the guidelines, the department may approve the guidelines for distribution and make those guidelines available upon request.*

(2) *The department may include, on its Internet Web site, a clearinghouse for best practices in training nonmedical personnel to administer an emergency antiseizure medication to pupils. Before a training program is placed on the best practices clearinghouse, it shall be approved by the Professional Advisory Board of the Epilepsy Foundations of Greater Los Angeles, San Diego County, and Northern California, in consultation with the department.*

~~(2)~~

(3) Training established pursuant to this subdivision shall include, but not be limited to, all of the following:

(A) Recognition and treatment of different types of seizures.

(B) Administration of ~~Diastat~~ an emergency antiseizure medication.

(C) Basic emergency followup procedures, including, but not limited to, calling the emergency 911 telephone number and contacting the pupil's parent or guardian.

(D) Techniques and procedures to ensure pupil privacy.

(4) *Any written materials used in the training shall be retained by the school.*

~~(3)~~

(5) Training established pursuant to this subdivision shall be conducted by one or more of the following:

(A) A physician and surgeon.

1 ~~(B) A physician and surgeon's~~ *physician's* assistant.

2 (C) A credentialed school nurse.

3 (D) A registered nurse.

4 (E) A certificated public health nurse.

5 ~~(4)~~

6 (6) Training provided in accordance with the manufacturer's
7 instructions, the pupil's health care provider's instructions, and
8 guidelines established pursuant to this section shall be deemed
9 adequate training for purposes of this section.

10 ~~(5) (A)~~

11 (n) (1) A school employee shall notify the credentialed school
12 nurse assigned to the school district if he or she administers ~~Diastat~~
13 *an emergency antiseizure medication* pursuant to this section.

14 ~~(B)~~

15 (2) If a credentialed school nurse is not assigned to the school
16 district, the school employee shall notify the superintendent of the
17 school district, or his or her designee, if he or she administers
18 ~~Diastat~~ *an emergency antiseizure medication* pursuant to this
19 section.

20 ~~(C)~~

21 (3) A school shall retain all records relating to the administration
22 of ~~Diastat~~ *an emergency antiseizure medication* while a pupil is
23 under the supervision of school staff.

24 ~~(6)~~

25 (o) The pupil's parent or guardian shall provide all materials
26 necessary to administer ~~Diastat~~ *an emergency antiseizure*
27 *medication*, including the information described in paragraph (6)
28 of subdivision ~~(i)~~ (k). A school shall not be responsible for
29 providing any of the necessary materials.

30 ~~(l) For purposes of this section, "Diastat" means diazepam rectal~~
31 ~~gel, marketed as Diastat AcuDial, approved by the federal Food~~
32 ~~and Drug Administration for patients with epilepsy for the~~
33 ~~management of seizures.~~

34 (p) For purposes of this section, the following definitions apply:

35 (1) An "emergency antiseizure medication" means diazepam
36 rectal gel and emergency medications approved by the federal
37 Food and Drug Administration for patients with epilepsy for the
38 management of seizures by persons without the medical credentials
39 listed in paragraph (5) of subdivision (m).

1 (2) “*Emergency medical assistance*” means the administration
2 of an emergency antiseizure medication to a pupil suffering from
3 an epileptic seizure.

4 ~~(m)~~

5 (q) This section shall remain in effect only until January 1, 2017,
6 and as of that date is repealed, unless a later enacted statute, that
7 is enacted before January 1, 2017, deletes or extends that date.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 18, 2011
BILL ANALYSIS**

AUTHOR:	Price	BILL NUMBER:	SB 538
SPONSOR:	Price	BILL STATUS:	Senate APPR
SUBJECT:	Nursing (Sunset Bill)	DATE LAST AMENDED:	5/10/11

SUMMARY:

Existing law, until January 1, 2012, creates within the Department of Consumer Affairs the Board of Registered Nursing, and provides for the board to select an executive director. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee of the Legislature.

ANALYSIS:

This bill would extend the operations of the Board of Registered Nursing until January 1, 2016, and, as of that date, the board would be subject to review by the appropriate policy committees of the Legislature.

Amended analysis of 4/25/11:

This bill amendment authorizes the Board of Registered Nursing to employ investigators and peace officers to provide investigative services necessary to meet their public protection mandate.

Additionally, this bill amendment requires the board, upon the Legislature's request, to fund an audit of the board's diversion program conducted by the Bureau of State Audits.

This bill amendment provides that a school of nursing that is not an institution of higher education or affiliated with an institution of higher education be subject to the requirements set forth in the Private Postsecondary Education Act of 2009.

This bill amendment requires all approved institutions of higher education and schools to remit specified fees for deposit into the board's fund. The schedule of fees is:

**\$5,000 for an approval to operate;
\$3,500 for the renewal fee for the institution; and
\$500 as a processing fee for authorization of a substantive change to an approval to operate.**

Additionally, the bill would impose an annual fee, payable to the Bureau of Private Postsecondary Education, for deposit into its fund.

This bill amendment authorizes the board to issue cease and desist orders to a school of nursing that is not approved by the board and would require the board to notify the office of the Attorney General of such a school. The bill provides that it would be unprofessional conduct for any registered nurse to violate that provision.

Finally, this bill amendment prohibits the transfer of a loan to the General Fund if the transfer will interfere with the board's ability to fulfill their statutory mandate.

Amended analysis of 5/10/11:

This amendment removed the provision that would have required the Bureau of State Audits to audit the Board's diversion program upon a specified request by the Legislature.

BOARD POSITION: Support (4/13/11)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

AMENDED IN SENATE MAY 10, 2011
AMENDED IN SENATE APRIL 25, 2011
AMENDED IN SENATE MARCH 21, 2011

SENATE BILL

No. 538

Introduced by Senator Price

February 17, 2011

An act to amend Sections 160, 2701, 2708, 2786, and 2798 of, and to add Sections ~~2770.15, 2786.2, and 2786.2~~ and 2786.5 to, the Business and Professions Code, to amend Section 16310 of the Government Code, and to amend Section 830.3 of the Penal Code, relating to nursing, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 538, as amended, Price. Nursing.

Existing law provides for the regulation of various professions and vocations by regulatory boards within the Department of Consumer Affairs. Existing law creates in the department a Division of Investigation and authorizes the Director of Consumer Affairs to employ investigators, inspectors, and deputies as are necessary to investigate and prosecute all violations of any law the enforcement of which is charged to the department or to any board in the department. Inspectors used by the boards are not required to be employees of the Division of Investigation, but may be employees of, or under contract to, the boards. Investigators of the Division of Investigation and of the Medical Board of California and the Dental Board of California have the authority of peace officers. Those entities are also authorized to employ individuals who are not peace officers to provide investigative services.

This bill would extend the application of those provisions to the Board of Registered Nursing. The bill would make conforming changes to related provisions.

Existing law, until January 1, 2012, creates within the Department of Consumer Affairs the Board of Registered Nursing, and provides for the board to select an executive director. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee of the Legislature.

This bill would extend the operation of these provisions until January 1, 2016, and would specify that the board is subject to review by the appropriate policy committees of the Legislature.

~~Existing law requires the Board of Registered Nursing to establish criteria for the acceptance, denial, or termination of licentiates in a diversion program for the rehabilitation of licensees.~~

~~This bill would require the Bureau of State Audits to audit the diversion program of the board, upon a specified request by the Legislature, to be funded by nongeneral fund moneys from the Board of Registered Nursing Fund.~~

Existing law requires the board to approve and regulate registered nursing schools that are institutions of higher education or are affiliated with an institution of higher education, as specified. Existing law requires a school of nursing that is not affiliated with an institution of higher education to make an agreement with such an institution for purposes of awarding nursing degrees.

This bill would instead subject a school of nursing that is not an institution of higher education or affiliated with an institution of higher education to the requirements set forth in the Private Postsecondary Education Act of 2009, and would subject all approved institutions of higher education and those schools to specified fees for deposit into the Board of Registered Nursing Fund, a continuously appropriated fund. The bill would also impose an annual fee, payable to the Bureau of Private Postsecondary Education, for deposit into the Private Postsecondary and Vocational Education Administration Fund. Because the bill adds a new source of revenue to a continuously appropriated fund, the bill would make an appropriation.

Existing law provides that it is unlawful for anyone to conduct a school of nursing unless the school has been approved by the board.

This bill would authorize the board to issue cease and desist orders to a school of nursing that is not approved by the board and would require the board to notify the office of the Attorney General of such a

school. The bill would also provide that it is unprofessional conduct for any registered nurse to violate that provision.

Under circumstances in which the General Fund in the State Treasury is or will be exhausted, existing law authorizes the Governor to order the Controller to direct the transfer of all or any part of the moneys not needed in other funds or accounts to the General Fund from those funds or accounts. Existing law provides that all moneys so transferred shall be returned to the funds or accounts from which they were transferred as soon as there are sufficient moneys in the General Fund to return them. Existing law prohibits the transfer of those loans if the transfer will interfere with the object for which a special fund was created or any transfer from the Central Valley Water Project Construction Fund, the Central Valley Water Project Revenue Fund, or the California Water Resources Development Bond Fund.

This bill would add the Board of Registered Nursing Fund to the enumerated funds for which a transfer may not be made to the General Fund under the above circumstances.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 160 of the Business and Professions Code
2 is amended to read:
3 160. (a) The Chief and, designated investigators of the Division
4 of Investigation of the department, designated investigators of the
5 Medical Board of California, designated investigators of the Dental
6 Board of California, and designated investigators of the Board of
7 Registered Nursing have the authority of peace officers while
8 engaged in exercising the powers granted or performing the duties
9 imposed upon them or the division in investigating the laws
10 administered by the various boards comprising the department or
11 commencing directly or indirectly any criminal prosecution arising
12 from any investigation conducted under these laws. All persons
13 herein referred to shall be deemed to be acting within the scope
14 of employment with respect to all acts and matters set forth in this
15 section.
16 (b) The Division of Investigation of the department, the Medical
17 Board of California, the Dental Board of California, and the Board

1 of Registered Nursing may employ individuals who are not peace
2 officers to provide investigative services.

3 SEC. 2. Section 2701 of the Business and Professions Code is
4 amended to read:

5 2701. (a) There is in the Department of Consumer Affairs the
6 Board of Registered Nursing consisting of nine members.

7 (b) Within the meaning of this chapter, board, or the board,
8 refers to the Board of Registered Nursing. Any reference in state
9 law to the Board of Nurse Examiners of the State of California or
10 California Board of Nursing Education and Nurse Registration
11 shall be construed to refer to the Board of Registered Nursing.

12 (c) This section shall remain in effect only until January 1, 2016,
13 and as of that date is repealed, unless a later enacted statute, that
14 is enacted before January 1, 2016, deletes or extends that date.
15 Notwithstanding any other provision of law, the repeal of this
16 section renders the board subject to review by the appropriate
17 policy committees of the Legislature.

18 SEC. 3. Section 2708 of the Business and Professions Code is
19 amended to read:

20 2708. (a) The board shall appoint an executive officer who
21 shall perform the duties delegated by the board and who shall be
22 responsible to it for the accomplishment of those duties.

23 (b) The executive officer shall be a nurse currently licensed
24 under this chapter and shall possess other qualifications as
25 determined by the board.

26 (c) The executive officer shall not be a member of the board.

27 (d) This section shall remain in effect only until January 1, 2016,
28 and as of that date is repealed, unless a later enacted statute, that
29 is enacted before January 1, 2016, deletes or extends that date.

30 ~~SEC. 4. Section 2770.15 is added to the Business and~~
31 ~~Professions Code, to read:~~

32 ~~2770.15. (a) If requested by the Legislature through the Joint~~
33 ~~Legislative Audit Committee in 2012, the Bureau of State Audits~~
34 ~~shall conduct a thorough performance audit of the board's diversion~~
35 ~~program to evaluate the effectiveness and efficiency of the~~
36 ~~program, and make recommendations regarding the continuation~~
37 ~~of the program and any changes or reforms required to ensure that~~
38 ~~licensees participating in the program are appropriately monitored~~
39 ~~and that the public is protected from licensees who are impaired~~
40 ~~due to alcohol or drug abuse or mental or physical illness. The~~

1 ~~audit shall be completed by January 1, 2013. The board and its~~
2 ~~staff shall cooperate with the audit, and the board shall provide~~
3 ~~data, information, and case files as requested by the auditor to~~
4 ~~perform all of its duties. The provision of confidential data,~~
5 ~~information, and case files by the board to the auditor shall not~~
6 ~~constitute a waiver of any exemption from disclosure or discovery~~
7 ~~or of any confidentiality protection or privilege otherwise provided~~
8 ~~by law that is applicable to the data, information, or case files.~~

9 ~~(b) The audit performed under subdivision (b) shall be paid for~~
10 ~~with nongeneral fund moneys from the Board of Registered~~
11 ~~Nursing Fund.~~

12 ~~SEC. 5.~~

13 *SEC. 4.* Section 2786 of the Business and Professions Code is
14 amended to read:

15 2786. (a) An approved school of nursing is one that has been
16 approved by the board, gives the course of instruction approved
17 by the board, covering not less than two academic years, is
18 affiliated or conducted in connection with one or more hospitals,
19 and is an institution of higher education or is affiliated with an
20 institution of higher education. For purposes of this section,
21 “institution of higher education” includes, but is not limited to,
22 community colleges offering an associate of arts or associate of
23 science degree and private postsecondary institutions offering an
24 associate of arts, associate of science, or baccalaureate degree.

25 (b) A school of nursing that is not an institution of higher
26 education or affiliated with an institution of higher education, and
27 is subject to the Private Postsecondary Education Act of 2009,
28 Chapter 8 (commencing with Section 94800) of Part 59 of Division
29 10 of Title 3 of the Education Code, shall be approved by the board
30 to grant an associate of arts or associate of science degree to
31 individuals who graduate from the school of nursing or to grant a
32 baccalaureate degree in nursing with successful completion of an
33 additional course of study as approved by the board and the
34 institution involved.

35 (c) The board shall determine by regulation the required subjects
36 of instruction to be completed in an approved school of nursing
37 for licensure as a registered nurse and shall include the minimum
38 units of theory and clinical experience necessary to achieve
39 essential clinical competency at the entry level of the registered
40 nurse. The board’s standards shall be designed to encourage all

1 schools to provide clinical instruction in all phases of the
2 educational process.

3 (d) The board shall perform or cause to be performed an analysis
4 of the practice of the registered nurse no less than every five years.
5 Results of the analysis shall be utilized to assist in the
6 determination of the required subjects of instruction, validation of
7 the licensing examination, and assessment of the current practice
8 of nursing.

9 ~~SEC. 6.~~

10 SEC. 5. Section 2786.2 is added to the Business and Professions
11 Code, to read:

12 2786.2. All private postsecondary schools *of nursing* approved
13 by the board pursuant to subdivision (b) of Section 2786 shall
14 comply with Article 8 (commencing with Section 94897) to Article
15 16 (commencing with Section 94928), inclusive, of, and shall be
16 subject to Article 18 (commencing with Section 94932) of, Chapter
17 8 of Part 59 of Division 10 of Title 3 of the Education Code. The
18 board shall ensure compliance with these provisions and shall be
19 responsible for the handling of student complaints regarding these
20 approved schools of nursing.

21 ~~SEC. 7.~~

22 SEC. 6. Section 2786.5 is added to the Business and Professions
23 Code, to read:

24 2786.5. (a) An institution of higher education or a private
25 postsecondary school *of nursing* approved by the board pursuant
26 to subdivision (b) of Section 2786 shall remit to the board for
27 deposit in the Board of Registered Nursing Fund the following
28 fees, in accordance with the following schedule:

29 (1) Application fee for an approval to operate: five thousand
30 dollars (\$5,000).

31 (2) Renewal fee for the institution: three thousand five hundred
32 dollars (\$3,500).

33 (3) Processing fee for authorization of a substantive change to
34 an approval to operate: five hundred dollars (\$500).

35 (b) In addition to any fees paid to the board pursuant to
36 paragraphs (1) to (3), inclusive, each school that is approved to
37 operate pursuant to subdivision (b) of Section 2786 shall remit an
38 annual institutional fee to the Bureau for Private Postsecondary
39 Education, in an amount equal to three-quarters of 1 percent of the
40 school's annual revenues derived from students in California, but

1 not exceeding a total of twenty-five thousand dollars (\$25,000)
2 annually, to be deposited in the Private Postsecondary and
3 Vocational Education Administration Fund.

4 (c) If the board determines that the annual cost of providing
5 oversight and review of an institution, as required by this article,
6 is less than the amount of any fees required to be paid by that
7 institution pursuant to this article, the board may decrease the fees
8 applicable to that institution to an amount that is proportional to
9 the board's costs associated with that institution.

10 ~~SEC. 8.~~

11 *SEC. 7.* Section 2798 of the Business and Professions Code is
12 amended to read:

13 2798. (a) It is unlawful for anyone to conduct a school of
14 nursing unless the school has been approved by the board.

15 (b) If the board has a reasonable belief, either by complaint or
16 otherwise, that a school is allowing students to apply for its nursing
17 program and that nursing program does not have the approval of
18 the board, the board shall immediately order the school to cease
19 and desist from offering students the ability to enroll in its nursing
20 program. The board shall also notify the Attorney General's office
21 that the school is offering students the ability to enroll in a nursing
22 program that does not have the approval of the board.

23 (c) It shall be unprofessional conduct for any registered nurse
24 to violate or attempt to violate, either directly or indirectly, or to
25 assist or abet the violation of, this section.

26 (d) This section is not applicable to schools conducted under
27 Section 2789 of this chapter.

28 ~~SEC. 9.~~

29 *SEC. 8.* Section 16310 of the Government Code is amended
30 to read:

31 16310. (a) When the General Fund in the Treasury is or will
32 be exhausted, the Controller shall notify the Governor and the
33 Pooled Money Investment Board. The Governor may order the
34 Controller to direct the transfer of all or any part of the moneys
35 not needed in other funds or accounts to the General Fund from
36 those funds or accounts, as determined by the Pooled Money
37 Investment Board, including the Surplus Money Investment Fund
38 or the Pooled Money Investment Account. All moneys so
39 transferred shall be returned to the funds or accounts from which
40 they were transferred as soon as there are sufficient moneys in the

1 General Fund to return them. No interest shall be charged or paid
2 on any transfer authorized by this section, exclusive of the Pooled
3 Money Investment Account, except as provided in this section.
4 This section does not authorize any transfer that will interfere with
5 the object for which a special fund was created or any transfer
6 from the Board of Registered Nursing Fund, Central Valley Water
7 Project Construction Fund, the Central Valley Water Project
8 Revenue Fund, or the California Water Resources Development
9 Bond Fund.

10 (b) (1) Interest shall be paid on all moneys transferred to the
11 General Fund from the following funds:

12 (A) The Department of Food and Agriculture Fund.

13 (B) The DNA Identification Fund.

14 (C) The Mental Health Services Fund.

15 (D) All funds created pursuant to the California Children and
16 Families Act of 1998, enacted by Proposition 10 at the November
17 3, 1998, statewide general election.

18 (E) Any funds retained by or in the possession of the California
19 Exposition and State Fair pursuant to this section.

20 (2) With respect to all other funds, and unless otherwise
21 specified, if the total moneys transferred to the General Fund in
22 any fiscal year from any special fund pursuant to this section
23 exceed an amount equal to 10 percent of the total additions to
24 surplus available for appropriation as shown in the statement of
25 operations of a prior fiscal year as set forth in the most recent
26 published annual report of the Controller, interest shall be paid on
27 the excess. Interest payable under this section shall be computed
28 at a rate determined by the Pooled Money Investment Board to be
29 the current earning rate of the fund from which transferred.

30 (c) Except as described in subdivision (d), all moneys in the
31 State Treasury may be loaned for the purposes described in
32 subdivision (a).

33 (d) Subdivision (c) shall not apply to any of the following:

34 (1) The Local Agency Investment Fund.

35 (2) Funds classified in the State of California Uniform Codes
36 Manual as bond funds or retirement funds.

37 (3) All or part of the moneys not needed in other funds or
38 accounts for purposes of subdivision (a) where the Controller is
39 prohibited by the California Constitution, bond indenture, or

1 statutory or case law from transferring all or any part of those
2 moneys.

3 ~~SEC. 10.~~

4 *SEC. 9.* Section 830.3 of the Penal Code is amended to read:

5 830.3. The following persons are peace officers whose authority
6 extends to any place in the state for the purpose of performing
7 their primary duty or when making an arrest pursuant to Section
8 836 as to any public offense with respect to which there is
9 immediate danger to person or property, or of the escape of the
10 perpetrator of that offense, or pursuant to Section 8597 or 8598 of
11 the Government Code. These peace officers may carry firearms
12 only if authorized and under those terms and conditions as specified
13 by their employing agencies:

14 (a) Persons employed by the Division of Investigation of the
15 Department of Consumer Affairs and investigators of the Medical
16 Board of California, the Board of Dental Examiners, and the Board
17 of Registered Nursing who are designated by the Director of
18 Consumer Affairs, provided that the primary duty of these peace
19 officers shall be the enforcement of the law as that duty is set forth
20 in Section 160 of the Business and Professions Code.

21 (b) Voluntary fire wardens designated by the Director of
22 Forestry and Fire Protection pursuant to Section 4156 of the Public
23 Resources Code, provided that the primary duty of these peace
24 officers shall be the enforcement of the law as that duty is set forth
25 in Section 4156 of that code.

26 (c) Employees of the Department of Motor Vehicles designated
27 in Section 1655 of the Vehicle Code, provided that the primary
28 duty of these peace officers shall be the enforcement of the law as
29 that duty is set forth in Section 1655 of that code.

30 (d) Investigators of the California Horse Racing Board
31 designated by the board, provided that the primary duty of these
32 peace officers shall be the enforcement of Chapter 4 (commencing
33 with Section 19400) of Division 8 of the Business and Professions
34 Code and Chapter 10 (commencing with Section 330) of Title 9
35 of Part 1 of this code.

36 (e) The State Fire Marshal and assistant or deputy state fire
37 marshals appointed pursuant to Section 13103 of the Health and
38 Safety Code, provided that the primary duty of these peace officers
39 shall be the enforcement of the law as that duty is set forth in
40 Section 13104 of that code.

1 (f) Inspectors of the food and drug section designated by the
2 chief pursuant to subdivision (a) of Section 106500 of the Health
3 and Safety Code, provided that the primary duty of these peace
4 officers shall be the enforcement of the law as that duty is set forth
5 in Section 106500 of that code.

6 (g) All investigators of the Division of Labor Standards
7 Enforcement designated by the Labor Commissioner, provided
8 that the primary duty of these peace officers shall be the
9 enforcement of the law as prescribed in Section 95 of the Labor
10 Code.

11 (h) All investigators of the State Departments of Health Care
12 Services, Public Health, Social Services, Mental Health, and
13 Alcohol and Drug Programs, the Department of Toxic Substances
14 Control, the Office of Statewide Health Planning and Development,
15 and the Public Employees' Retirement System, provided that the
16 primary duty of these peace officers shall be the enforcement of
17 the law relating to the duties of his or her department or office.
18 Notwithstanding any other provision of law, investigators of the
19 Public Employees' Retirement System shall not carry firearms.

20 (i) The Chief of the Bureau of Fraudulent Claims of the
21 Department of Insurance and those investigators designated by the
22 chief, provided that the primary duty of those investigators shall
23 be the enforcement of Section 550.

24 (j) Employees of the Department of Housing and Community
25 Development designated under Section 18023 of the Health and
26 Safety Code, provided that the primary duty of these peace officers
27 shall be the enforcement of the law as that duty is set forth in
28 Section 18023 of that code.

29 (k) Investigators of the office of the Controller, provided that
30 the primary duty of these investigators shall be the enforcement
31 of the law relating to the duties of that office. Notwithstanding any
32 other law, except as authorized by the Controller, the peace officers
33 designated pursuant to this subdivision shall not carry firearms.

34 (l) Investigators of the Department of Corporations designated
35 by the Commissioner of Corporations, provided that the primary
36 duty of these investigators shall be the enforcement of the
37 provisions of law administered by the Department of Corporations.
38 Notwithstanding any other provision of law, the peace officers
39 designated pursuant to this subdivision shall not carry firearms.

1 (m) Persons employed by the Contractors State License Board
2 designated by the Director of Consumer Affairs pursuant to Section
3 7011.5 of the Business and Professions Code, provided that the
4 primary duty of these persons shall be the enforcement of the law
5 as that duty is set forth in Section 7011.5, and in Chapter 9
6 (commencing with Section 7000) of Division 3, of that code. The
7 Director of Consumer Affairs may designate as peace officers not
8 more than 12 persons who shall at the time of their designation be
9 assigned to the special investigations unit of the board.
10 Notwithstanding any other provision of law, the persons designated
11 pursuant to this subdivision shall not carry firearms.

12 (n) The Chief and coordinators of the Law Enforcement Branch
13 of the California Emergency Management Agency.

14 (o) Investigators of the office of the Secretary of State designated
15 by the Secretary of State, provided that the primary duty of these
16 peace officers shall be the enforcement of the law as prescribed
17 in Chapter 3 (commencing with Section 8200) of Division 1 of
18 Title 2 of, and Section 12172.5 of, the Government Code.
19 Notwithstanding any other provision of law, the peace officers
20 designated pursuant to this subdivision shall not carry firearms.

21 (p) The Deputy Director for Security designated by Section
22 8880.38 of the Government Code, and all lottery security personnel
23 assigned to the California State Lottery and designated by the
24 director, provided that the primary duty of any of those peace
25 officers shall be the enforcement of the laws related to assuring
26 the integrity, honesty, and fairness of the operation and
27 administration of the California State Lottery.

28 (q) Investigators employed by the Investigation Division of the
29 Employment Development Department designated by the director
30 of the department, provided that the primary duty of those peace
31 officers shall be the enforcement of the law as that duty is set forth
32 in Section 317 of the Unemployment Insurance Code.

33 Notwithstanding any other provision of law, the peace officers
34 designated pursuant to this subdivision shall not carry firearms.

35 (r) The chief and assistant chief of museum security and safety
36 of the California Science Center, as designated by the executive
37 director pursuant to Section 4108 of the Food and Agricultural
38 Code, provided that the primary duty of those peace officers shall
39 be the enforcement of the law as that duty is set forth in Section
40 4108 of the Food and Agricultural Code.

1 (s) Employees of the Franchise Tax Board designated by the
2 board, provided that the primary duty of these peace officers shall
3 be the enforcement of the law as set forth in Chapter 9
4 (commencing with Section 19701) of Part 10.2 of Division 2 of
5 the Revenue and Taxation Code.

6 (t) Notwithstanding any other provision of this section, a peace
7 officer authorized by this section shall not be authorized to carry
8 firearms by his or her employing agency until that agency has
9 adopted a policy on the use of deadly force by those peace officers,
10 and until those peace officers have been instructed in the employing
11 agency's policy on the use of deadly force.

12 Every peace officer authorized pursuant to this section to carry
13 firearms by his or her employing agency shall qualify in the use
14 of the firearms at least every six months.

15 (u) Investigators of the Department of Managed Health Care
16 designated by the Director of the Department of Managed Health
17 Care, provided that the primary duty of these investigators shall
18 be the enforcement of the provisions of laws administered by the
19 Director of the Department of Managed Health Care.
20 Notwithstanding any other provision of law, the peace officers
21 designated pursuant to this subdivision shall not carry firearms.

22 (v) The Chief, Deputy Chief, supervising investigators, and
23 investigators of the Office of Protective Services of the State
24 Department of Developmental Services, provided that the primary
25 duty of each of those persons shall be the enforcement of the law
26 relating to the duties of his or her department or office.

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 18, 2011
BILL ANALYSIS**

AUTHOR:	Price	BILL NUMBER:	SB 541
SPONSOR:	Medical Board of California & Contractors State License Board	BILL STATUS:	Senate APPR
SUBJECT:	Regulatory boards: expert consultants	DATE LAST AMENDED:	4/13/11

SUMMARY:

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs.

Existing law generally requires applicants for a license to pass an examination and authorizes boards to take disciplinary action against licensees for violations of law.

Existing law establishes standards relating to personal service contracts in state employment.

ANALYSIS:

This bill would authorize boards within the Department of Consumer Affairs to enter into an agreement with an expert consultant, subject to the standards regarding personal service contracts, to provide enforcement and examination assistance. The bill would require each board to establish policies and procedures for the selection and use of consultants, instead of having to complete the formal contracting process for each consultant.

This bill would declare that it is to take effect immediately as an urgency statute.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

AMENDED IN SENATE APRIL 13, 2011

SENATE BILL

No. 541

Introduced by Senator Price

February 17, 2011

An act to ~~amend Sections 7000.5 and 7011 of~~ *add Section 40 to the Business and Professions Code, relating to ~~contractors~~ profession and vocations, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 541, as amended, Price. Contractors' State License ~~Board~~. *Regulatory boards: expert consultants.*

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law, the Chiropractic Act, enacted by initiative, provides for the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners. Existing law, the Osteopathic Act, requires the Osteopathic Medical Board of California to regulate osteopathic physicians and surgeons. Existing law generally requires applicants for a license to pass an examination and authorizes boards to take disciplinary action against licensees for violations of law. Existing law establishes standards relating to personal service contracts in state employment.

This bill would authorize these boards to enter into an agreement with an expert consultant, subject to the standards regarding personal service contracts described above, to provide enforcement and examination assistance. The bill would require each board to establish policies and procedures for the selection and use of these consultants.

This bill would declare that it is to take effect immediately as an urgency statute.

Existing law establishes within the Department of Consumer Affairs, until January 1, 2012, the Contractors' State License Board and a registrar of contractors, for purposes of the licensure and regulation of contractors. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee.

This bill would extend the operation of those provisions until January 1, 2016, and would specify that the board would be subject to review by the appropriate policy committees of the Legislature.

Vote: majority ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 40 is added to the Business and
2 Professions Code, to read:

3 40. (a) Subject to the standards described in Section 19130
4 of the Government Code, any board, as defined in Section 22, the
5 State Board of Chiropractic Examiners, or the Osteopathic Medical
6 Board of California may enter into an agreement with an expert
7 consultant to do any of the following:

8 (1) Provide an expert opinion on enforcement-related matters,
9 including providing testimony at an administrative hearing.

10 (2) Assist the board as a subject matter expert in examination
11 development, examination validation, or occupational analyses.

12 (3) Evaluate the mental or physical health of a licensee or an
13 applicant for a license as may be necessary to protect the public
14 health and safety.

15 (b) An executed contract between a board and an expert
16 consultant shall be exempt from the provisions of Part 2
17 (commencing with Section 10100) of Division 2 of the Public
18 Contract Code.

19 (c) Each board shall establish policies and procedures for the
20 selection and use of expert consultants.

21 SEC. 2. This act is an urgency statute necessary for the
22 immediate preservation of the public peace, health, or safety within
23 the meaning of Article IV of the Constitution and shall go into
24 immediate effect. The facts constituting the necessity are:

25 To ensure that licensees engaging in certain professions and
26 vocations are adequately regulated at the earliest possible time

1 *in order to protect and safeguard consumers and the public in this*
2 *state, it is necessary that this act take effect immediately.*

3 ~~SECTION 1. Section 7000.5 of the Business and Professions~~
4 ~~Code is amended to read:~~

5 ~~7000.5. (a) There is in the Department of Consumer Affairs~~
6 ~~a Contractors' State License Board, which consists of 15 members.~~

7 ~~(b) Notwithstanding any other provision of law, the repeal of~~
8 ~~this section renders the board subject to review by the appropriate~~
9 ~~policy committees of the Legislature.~~

10 ~~(c) This section shall remain in effect only until January 1, 2016,~~
11 ~~and as of that date is repealed, unless a later enacted statute, that~~
12 ~~is enacted before January 1, 2016, deletes or extends that date.~~

13 ~~SEC. 2. Section 7011 of the Business and Professions Code is~~
14 ~~amended to read:~~

15 ~~7011. (a) The board, by and with the approval of the director,~~
16 ~~shall appoint a registrar of contractors and fix his or her~~
17 ~~compensation.~~

18 ~~(b) The registrar shall be the executive officer and secretary of~~
19 ~~the board and shall carry out all of the administrative duties as~~
20 ~~provided in this chapter and as delegated to him or her by the~~
21 ~~board.~~

22 ~~(c) For the purpose of administration of this chapter, there may~~
23 ~~be appointed a deputy registrar, a chief reviewing and hearing~~
24 ~~officer, and, subject to Section 159.5, other assistants and~~
25 ~~subordinates as may be necessary.~~

26 ~~(d) Appointments shall be made in accordance with the~~
27 ~~provisions of civil service laws.~~

28 ~~(e) This section shall remain in effect only until January 1, 2016,~~
29 ~~and as of that date is repealed, unless a later enacted statute, that~~
30 ~~is enacted before January 1, 2016, deletes or extends that date.~~

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 18, 2011
BILL ANALYSIS**

AUTHOR:	Price	BILL NUMBER:	SB 544
SPONSOR:	Price	BILL STATUS:	Senate BP&ED
SUBJECT:	Professions and vocations: regulatory boards	DATE LAST AMENDED:	4/14/11

SUMMARY:

Existing law provides for the licensure and regulation of profession and vocation licensees by various boards within the Department of Consumer Affairs. Within the department, there are healing arts boards and nonhealing arts boards. The department is under the control of the Director of Consumer Affairs.

Existing law authorizes the director to audit and review, among other things, inquiries and complaints regarding licensees, dismissals of disciplinary cases, and discipline short of formal accusation by the Medical Board of California and the California Board of Podiatric Medicine.

Existing law authorizes the director to employ investigators, inspectors, and deputies as are necessary to investigate and prosecute all violations of any law, the enforcement of which is charged to the department, or to any board in the department. Inspectors used by the boards are not required to be employees of the Division of Investigation, but may be employees of, or under contract to, the boards.

Existing law requires a physician and surgeon, osteopathic physician and surgeon, and a doctor of podiatric medicine to report to his or her respective board when there is an indictment or information charging a felony against the licensee or he or she has been convicted of a felony or misdemeanor.

Existing law requires the district attorney, city attorney, and other prosecuting agencies to notify the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, the State Board of Chiropractic Examiners, and other allied health boards and the court clerk if felony charges have been filed against one of the board's licensees. Existing law also requires, within 10 days after a court judgment, the clerk of the court to report to the appropriate board when a licensee has committed a crime or is liable for any death or personal injury resulting in a specified judgment. Existing law also requires the clerk of the court to transmit to certain boards specified felony preliminary transcript hearings concerning a defendant licensee.

Under existing law, healing arts licensees are regulated by various healing arts boards within the department. These boards are authorized to issue, deny, suspend, and revoke licenses based on various grounds and to take disciplinary action against a licensee for the failure to comply with their laws and regulations. Existing law requires or authorizes a board to appoint an executive officer to, among other things, perform duties delegated by the board.

ANALYSIS:

This act would be known as the Consumer Health Protection Enforcement Act.

This bill would:

- Require cooperation between state agencies and all boards within the department when investigating a licensee, and would require a state agency to provide to the board all licensee records in the custody of the state agency.
- Require all local and state law enforcement agencies, state and local governments, state agencies, licensed health care facilities, and any employers of any licensee to provide licensee records to any board within the department upon request by that board, and would make an additional requirement specific to the Department of Justice.
- Prohibit a licensee regulated by a board within the department from including certain provisions in an agreement to settle a civil litigation action arising from his or her practice, as specified.
- Authorize the director or his or her designee to audit and review the aforementioned activities by any of the healing arts boards.
- Authorize healing arts boards to employ investigators who are not employees of the Division of Investigation, and would authorize those boards to contract for investigative services provided by the Department of Justice.
- Establish within the Division of Investigation the Health Quality Enforcement Unit to provide investigative services for healing arts proceedings.
- Require all healing arts boards within the department to report annually, by October 1, to the department and the Legislature certain information, including, but not limited to, the total number of complaints closed or resolved without discipline, the total number of complaints and reports referred for formal investigation, and the total number of accusations filed and the final disposition of accusations through the board and court review, respectively.
- Provide that it is an act of unprofessional conduct for any licensee of a healing arts board to fail to furnish information in a timely manner to the board or the board's

investigators, or to fail to cooperate and participate in any disciplinary investigation pending against him or her, except as specified.

- Expand the requirement reporting to his or her respective board when there is an indictment or information charging a felony against the licensee or he or she has been convicted of a felony or misdemeanor to a licensee of any healing arts board, as specified, and would further require a report when disciplinary action is taken against a licensee by another healing arts board or by a healing arts board of another state or an agency of the federal government.
- Require the district attorney, city attorney, and other prosecuting agencies to notify appropriate healing art boards and the court clerk if felony charges have been filed against one of the board's licensees. This bill would also require, within 10 days after a court judgment, the clerk of the court to report to the appropriate board when a licensee has committed a crime or is liable for any death or personal injury resulting in a specified judgment.
- Require a healing arts board, the State Board of Chiropractic Examiners, and the Osteopathic Medical Board of California to query the federal National Practitioner Data Bank prior to, among other things, granting a license to an applicant who is currently residing in another state or granting a petition for reinstatement of a revoked or surrendered license.
- Make it a crime to engage in the practice of a healing art without a current and valid license, except as specified; or to fraudulently buy, sell, or obtain a license to practice healing arts.
- Authorize a healing arts board to delegate to its executive officer, where an administrative action has been filed by the board to revoke the license of a licensee and the licensee has failed to file a notice of defense or appear at the hearing, the authority to adopt a proposed default decision. The board may delegate to its executive officer the authority to adopt a proposed settlement agreement where an administrative action to revoke a license has been filed and the licensee has agreed to the revocation or surrender of the license. The bill would also authorize a healing arts board to enter into a settlement with a licensee or applicant in lieu of the issuance of an accusation or statement of issues against the licensee or applicant.
- Provide that the license of a licensee of a healing arts board shall be suspended if the licensee is incarcerated after the conviction of a felony and would require the board to notify the licensee of the suspension and of his or her right to a specified hearing. The bill would specify that no hearing is required, however, if the conviction was for a violation of federal law or state law for the use of dangerous drugs or controlled substances or specified sex offenses; a violation for the use of dangerous drugs or controlled substances would also constitute unprofessional conduct and a crime.

- Prohibit the issuance of a healing arts license to any person who is a registered sex offender, and would provide for the revocation of a license upon the conviction of certain sex offenses, as defined. The bill would provide that the commission of, and conviction for, any act of sexual abuse, misconduct, or attempted sexual misconduct, whether or not with a patient, or conviction of a felony requiring registration as a sex offender, be considered a crime substantially related to the qualifications, functions, or duties of a healing arts licensee. The bill would impose requirements on boards with respect to individuals required to register as a sex offender.
- Authorize the Attorney General and his or her investigative agents and certain healing arts boards to inquire into any alleged violation of the laws under the boards' jurisdiction and to inspect documents subject to specified procedures. The bill would make the licensees of those healing arts boards or a health care facility that fails to comply with a patient's medical record request, as specified, within 15 days, or who fails or refuses to comply with a court order mandating release of records, subject to civil and criminal penalties, as specified.
- Require the employer of certain health care licensees to report to the appropriate board within a specified timeframe information relating to a health care licensee who is suspended or terminated for cause or who resigns. The bill would require a board to investigate these reports, including the inspection and copying of certain documents relating to that suspension, termination, or resignation.
- Require specified healing arts boards, on or after July 1, 2013, to post on their Internet Web sites specified information in their possession, custody, or control regarding their licensees and their license status, prior discipline, and convictions.
- Authorize a healing arts board to automatically suspend the license of any licensee who also has an out-of-state license or a license issued by an agency of the federal government that is suspended or revoked, except as specified.
- Authorize a healing arts board to utilize the services of the Health Quality Enforcement Section or licensing section. If utilized, the bill would require the Attorney General to assign attorneys employed by the office of the Attorney General to work on location at the licensing unit of the Division of Investigation of the Department of Consumer Affairs, as specified.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

AMENDED IN SENATE APRIL 14, 2011

AMENDED IN SENATE MARCH 21, 2011

SENATE BILL

No. 544

Introduced by Senator Price

February 17, 2011

~~An act to add Section 1623 to the Business and Professions Code, relating to dentistry. An act to amend Sections 116, 155, 159.5, 726, 802.1, 803, 803.5, 803.6, 822, 2246, 2960.1, 4982.26, and 4992.33 of, and to add Sections 40, 42, 44, 505, 734, 735, 736, 737, 803.7, 803.8, 857, 1688, 1688.1, 1688.2, 1688.3, 1688.4, 1688.5, 1688.6, 1947.1, 1947.2, 1947.3, 1947.4, 1947.5, 1947.6, 1947.7, 1947.8, 2533.5, 2533.6, 2533.7, 2533.8, 2533.9, 2533.10, 2533.11, 2533.12, 2533.13, 2533.14, 2570.38, 2570.39, 2570.40, 2570.41, 2570.42, 2570.43, 2570.44, 2570.45, 2570.46, 2570.47, 2661.8, 2661.9, 2661.10, 2661.11, 2661.12, 2661.13, 2661.14, 2661.15, 2661.16, 2661.17, 2766, 2766.1, 2766.2, 2766.3, 2766.4, 2766.5, 2766.6, 2766.7, 2766.8, 2879.1, 2879.2, 2879.3, 2879.4, 2879.5, 2879.6, 2879.7, 2879.8, 2879.10, 2969.1, 2969.2, 2969.3, 2969.4, 3112, 3112.1, 3112.2, 3112.3, 3112.4, 3112.5, 3112.6, 3112.7, 3112.8, 3112.9, 3405, 3405.1, 3405.2, 3405.3, 3405.4, 3405.5, 3405.6, 3405.7, 3405.8, 3405.9, 3531.1, 3531.2, 3531.3, 3531.4, 3531.5, 3531.6, 3531.7, 3531.8, 3531.9, 3531.10, 3665, 3665.1, 3665.2, 3665.3, 3665.4, 3665.5, 3665.6, 3665.7, 3665.8, 3665.9, 3769.4, 3769.5, 3769.6, 3769.7, 3769.8, 3769.9, 3769.10, 4316, 4316.1, 4316.2, 4316.3, 4316.4, 4316.5, 4316.6, 4375, 4526, 4526.1, 4526.2, 4526.3, 4526.4, 4526.5, 4526.6, 4526.8, 4526.9, 4888, 4888.1, 4888.2, 4888.3, 4888.4, 4888.5, 4888.6, 4888.7, 4964.1, 4964.2, 4964.3, 4964.4, 4964.55, 4964.6, 4964.7, 4964.8, 4964.9, 4964.10, 4990.44, 4990.45, 4990.46, 4990.47, 4990.48, 4990.49, 4990.50, 4990.51, 4990.52, and 4990.53 to, to add Article 16 (commencing with Section 880) to Chapter 1 of Division 2 of, and to repeal Sections 2608.5 and 2660.5 of, the Business and~~

Professions Code, and to add section 12529.8 to the Government Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 544, as amended, Price. ~~Dental Board of California: collection of fees, fines, and cost recovery.~~ *Professions and vocations: regulatory boards.*

(1) Existing law provides for the licensure and regulation of profession and vocation licensees by various boards within the Department of Consumer Affairs. Within the department, there are healing arts boards and nonhealing arts boards. The department is under the control of the Director of Consumer Affairs.

This bill would require cooperation between state agencies and all boards within the department when investigating a licensee, and would require a state agency to provide to the board all licensee records in the custody of the state agency. The bill would require all local and state law enforcement agencies, state and local governments, state agencies, licensed health care facilities, and any employers of any licensee to provide licensee records to any board within the department upon request by that board, and would make an additional requirement specific to the Department of Justice. By imposing additional duties on local agencies, the bill would impose a state-mandated local program.

The bill would prohibit a licensee regulated by a board within the department from including certain provisions in an agreement to settle a civil litigation action arising from his or her practice, as specified.

(2) Existing law authorizes the director to audit and review, among other things, inquiries and complaints regarding licensees, dismissals of disciplinary cases, and discipline short of formal accusation by the Medical Board of California and the California Board of Podiatric Medicine.

This bill would additionally authorize the director or his or her designee to audit and review the aforementioned activities by any of the healing arts boards.

Existing law authorizes the director to employ investigators, inspectors, and deputies as are necessary to investigate and prosecute all violations of any law, the enforcement of which is charged to the department, or to any board in the department. Inspectors used by the boards are not required to be employees of the Division of Investigation, but may be employees of, or under contract to, the boards.

This bill would authorize healing arts boards to employ investigators who are not employees of the Division of Investigation, and would authorize those boards to contract for investigative services provided by the Department of Justice. The bill would also establish within the Division of Investigation the Health Quality Enforcement Unit to provide investigative services for healing arts proceedings.

The bill would require all healing arts boards within the department to report annually, by October 1, to the department and the Legislature certain information, including, but not limited to, the total number of complaints closed or resolved without discipline, the total number of complaints and reports referred for formal investigation, and the total number of accusations filed and the final disposition of accusations through the board and court review, respectively.

The bill would also provide that it is an act of unprofessional conduct for any licensee of a healing arts board to fail to furnish information in a timely manner to the board or the board's investigators, or to fail to cooperate and participate in any disciplinary investigation pending against him or her, except as specified.

Existing law requires a physician and surgeon, osteopathic physician and surgeon, and a doctor of podiatric medicine to report to his or her respective board when there is an indictment or information charging a felony against the licensee or he or she has been convicted of a felony or misdemeanor.

This bill would expand that requirement to a licensee of any healing arts board, as specified, and would further require a report when disciplinary action is taken against a licensee by another healing arts board or by a healing arts board of another state or an agency of the federal government.

Existing law requires the district attorney, city attorney, and other prosecuting agencies to notify the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, the State Board of Chiropractic Examiners, and other allied health boards and the court clerk if felony charges have been filed against one of the board's licensees. Existing law also requires, within 10 days after a court judgment, the clerk of the court to report to the appropriate board when a licensee has committed a crime or is liable for any death or personal injury resulting in a specified judgment. Existing law also requires the clerk of the court to transmit to certain boards specified felony preliminary transcript hearings concerning a defendant licensee.

The bill would instead make those provisions applicable to all healing arts boards. By imposing additional duties on these local agencies, the bill would impose a state-mandated local program.

The bill would require a healing arts board, the State Board of Chiropractic Examiners, and the Osteopathic Medical Board of California to query the federal National Practitioner Data Bank prior to, among other things, granting a license to an applicant who is currently residing in another state or granting a petition for reinstatement of a revoked or surrendered license.

This bill would make it a crime to engage in the practice of healing arts without a current and valid license, except as specified; or to fraudulently buy, sell, or obtain a license to practice healing arts. By creating new crimes, the bill would impose a state-mandated local program.

(3) Under existing law, healing arts licensees are regulated by various healing arts boards within the department. These boards are authorized to issue, deny, suspend, and revoke licenses based on various grounds and to take disciplinary action against a licensee for the failure to comply with their laws and regulations. Existing law requires or authorizes a board to appoint an executive officer to, among other things, perform duties delegated by the board.

This bill would authorize a healing arts board to delegate to its executive officer, where an administrative action has been filed by the board to revoke the license of a licensee and the licensee has failed to file a notice of defense or appear at the hearing, the authority to adopt a proposed default decision. The bill would also authorize a healing arts board to enter into a settlement with a licensee or applicant in lieu of the issuance of an accusation or statement of issues against the licensee or applicant.

The bill would also provide that the license of a licensee of a healing arts board shall be suspended if the licensee is incarcerated after the conviction of a felony and would require the board to notify the licensee of the suspension and of his or her right to a specified hearing. The bill would specify that no hearing is required, however, if the conviction was for a violation of federal law or state law for the use of dangerous drugs or controlled substances or specified sex offenses; a violation for the use of dangerous drugs or controlled substances would also constitute unprofessional conduct and a crime, thereby imposing a state-mandated local program.

The bill would prohibit the issuance of a healing arts license to any person who is a registered sex offender, and would provide for the revocation of a license upon the conviction of certain sex offenses, as defined. The bill would provide that the commission of, and conviction for, any act of sexual abuse, misconduct, or attempted sexual misconduct, whether or not with a patient, or conviction of a felony requiring registration as a sex offender, be considered a crime substantially related to the qualifications, functions, or duties of a healing arts licensee. The bill would impose requirements on boards with respect to individuals required to register as a sex offender.

This bill would authorize the Attorney General and his or her investigative agents and certain healing arts boards to inquire into any alleged violation of the laws under the boards' jurisdiction and to inspect documents subject to specified procedures. The bill would make the licensees of those healing arts boards or a health care facility that fails to comply with a patient's medical record request, as specified, within 15 days, or who fails or refuses to comply with a court order mandating release of records, subject to civil and criminal penalties, as specified. By creating a new crime, the bill would impose a state-mandated local program.

The bill would require the employer of certain health care licensees to report to the appropriate board within a specified timeframe information relating to a health care licensee who is suspended or terminated for cause or who resigns. The bill would require a board to investigate these reports, including the inspection and copying of certain documents relating to that suspension, termination, or resignation.

The bill would require specified healing arts boards, on or after July 1, 2013, to post on their Internet Web sites specified information in their possession, custody, or control regarding their licensees and their license status, prior discipline, and convictions.

The bill would authorize a healing arts board to automatically suspend the license of any licensee who also has an out-of-state license or a license issued by an agency of the federal government that is suspended or revoked, except as specified.

(4) The bill would declare the intent of the Legislature that the Bureau of State Audits conduct a specified review of the Pharmacists Recovery Program by January 1, 2013.

(5) Existing law establishes in the Department of Justice the Health Quality Enforcement Section, whose primary responsibility is to investigate and prosecute proceedings against licensees and applicants

within the jurisdiction of the Medical Board of California and any committee of the board, the California Board of Podiatric Medicine, and the Board of Psychology.

This bill would authorize a healing arts board to utilize the services of the Health Quality Enforcement Section or licensing section. If utilized, the bill would require the Attorney General to assign attorneys employed by the office of the Attorney General to work on location at the licensing unit of the Division of Investigation of the Department of Consumer Affairs, as specified.

(6) The bill would delete, revise and recast various provisions of the Physical Therapy Practice Act and would make other conforming changes.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~Existing law, the Dental Practice Act, provides for the licensure and regulation of dentists by the Dental Board of California. Existing law establishes specified fees for licenses, permits, and certificates issued by the board. Existing law also sets forth specified fines and penalties for violations of the Dental Practice Act.~~

~~This bill would authorize the board to contract with a collection agency to collect outstanding fees, fines, or cost recovery amounts from persons who owe those moneys to the board, as specified. The bill would require the contract with a collection agency to contain specified safeguards to protect an individual's personal information from unauthorized disclosure and to provide for the liability of the collection agency for the unauthorized use or disclosure of that information.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 *SECTION 1. This act shall be known and may be cited as the*
2 *Consumer Health Protection Enforcement Act.*

3 *SEC. 2. (a) The Legislature finds and declares the following:*

4 *(1) In recent years, it has been reported that many of the healing*
5 *arts boards within the Department of Consumer Affairs take, on*
6 *average, more than three years to investigate and prosecute*
7 *violations of law, a timeframe that does not adequately protect*
8 *consumers.*

9 *(2) The excessive amount of time that it takes healing arts boards*
10 *to investigate and prosecute licensed professionals who have*
11 *violated the law has been caused, in part, by legal and procedural*
12 *impediments to the enforcement programs.*

13 *(3) Both consumers and licensees have an interest in the quick*
14 *resolution of complaints and disciplinary actions. Consumers need*
15 *prompt action against licensees who do not comply with*
16 *professional standards, and licensees have an interest in timely*
17 *review of consumer complaints to keep the trust of their patients.*

18 *(b) It is the intent of the Legislature that the changes made by*
19 *this act will improve efficiency and increase accountability within*
20 *the healing arts boards of the Department of Consumer Affairs,*
21 *and will remain consistent with the long-held paramount goal of*
22 *consumer protection.*

23 *(c) It is further the intent of the Legislature that the changes*
24 *made by this act will provide healing arts boards within the*
25 *Department of Consumer Affairs with the regulatory tools and*
26 *authorities necessary to reduce the average timeframe for*
27 *investigating and prosecuting violations of law by healing arts*
28 *practitioners to between 12 and 18 months.*

29 *SEC. 3. Section 40 is added to the Business and Professions*
30 *Code, to read:*

31 *40. (a) Notwithstanding any other provision of law, for*
32 *purposes of a board investigation, a state agency shall, upon*
33 *receiving a request in writing from a board for records about a*
34 *particular licensee, immediately provide to the board all records*
35 *about a licensee in the custody of the state agency, including, but*
36 *not limited to, confidential records, medical records, and records*
37 *related to closed or open investigations.*

1 (b) If a state agency has knowledge that a person it is
2 investigating is licensed by a board, the state agency shall notify
3 the board that it is conducting an investigation against one of its
4 licentiates. The notification of investigation to the board shall
5 include the name, address, and, if known, the professional license
6 type and license number of the person being investigated and the
7 name and address or telephone number of a person who can be
8 contacted for further information about the investigation. The state
9 agency shall cooperate with the board in providing any requested
10 information.

11 (c) A board shall maintain the confidentiality of any personally
12 identifying information contained in the records maintained
13 pursuant to this section, and shall not share, sell, or transfer the
14 information to any third party unless it is otherwise authorized by
15 federal or state law.

16 SEC. 4. Section 42 is added to the Business and Professions
17 Code, to read:

18 42. Notwithstanding any other provision of law, all local and
19 state law enforcement agencies, state and local governments, state
20 agencies, licensed health care facilities, and employers of a
21 licensee of a board shall provide records to the board upon request
22 prior to receiving payment from the board for the cost of providing
23 the records. These records include, but are not limited to,
24 confidential records, medical records, and records related to closed
25 or open investigations.

26 SEC. 5. Section 44 is added to the Business and Professions
27 Code, to read:

28 44. (a) A licensee of a board shall not include or permit to be
29 included any of the following provisions in an agreement to settle
30 a civil litigation action filed by a consumer arising from the
31 licensee's practice, whether the agreement is made before or after
32 the filing of an action:

33 (1) A provision that prohibits another party to the dispute from
34 contacting or cooperating with the board.

35 (2) A provision that prohibits another party to the dispute from
36 filing a complaint with the board.

37 (3) A provision that requires another party to the dispute to
38 withdraw a complaint he or she has filed with the board.

39 (b) A provision described in subdivision (a) is void as against
40 public policy.

1 (c) A violation of this section constitutes unprofessional conduct
2 and may subject the licensee to disciplinary action.

3 (d) If a board complies with Section 2220.7, that board shall
4 not be subject to the requirements of this section.

5 SEC. 6. Section 116 of the Business and Professions Code is
6 amended to read:

7 116. (a) The director or his or her designee may audit and
8 review, upon his or her own initiative, or upon the request of a
9 consumer or licensee, inquiries and complaints regarding licensees,
10 dismissals of disciplinary cases, the opening, conduct, or closure
11 of investigations, informal conferences, and discipline short of
12 formal accusation by ~~the Medical Board of California, the allied~~
13 ~~health professional boards, and the California Board of Podiatric~~
14 ~~Medicine~~ any of the healing arts boards described in Division 2
15 (commencing with Section 500). The director may make
16 recommendations for changes to the disciplinary system to the
17 appropriate board, the Legislature, or both, for their consideration.

18 (b) The director shall report to the Chairpersons of the Senate
19 Committee on Business and Professions ~~Committee and Economic~~
20 ~~Development~~ and the Assembly Committee on Health ~~Committee~~
21 annually, ~~commencing March 1, 1995~~, regarding his or her findings
22 from any audit, review, or monitoring and evaluation conducted
23 pursuant to this section.

24 SEC. 7. Section 155 of the Business and Professions Code is
25 amended to read:

26 155. (a) In accordance with Section 159.5, the director may
27 employ such investigators, inspectors, and deputies as are necessary
28 to properly ~~to~~ investigate and prosecute all violations of any law,
29 the enforcement of which is charged to the department or to any
30 board, agency, or commission in the department.

31 (b) It is the intent of the Legislature that inspectors used by
32 boards, bureaus, or commissions in the department shall not be
33 required to be employees of the Division of Investigation, but may
34 either be employees of, or under contract to, the boards, bureaus,
35 or commissions. Contracts for services shall be consistent with
36 Article 4.5 (commencing with Section 19130) of Chapter 6 of Part
37 2 of Division 5 of Title 2 of the Government Code. All civil service
38 employees currently employed as inspectors whose functions are
39 transferred as a result of this section shall retain their positions,
40 status, and rights in accordance with Section 19994.10 of the

1 Government Code and the State Civil Service Act (Part 2
2 (commencing with Section 18500) of Division 5 of Title 2 of the
3 Government Code).

4 *(c) Investigators used by any healing arts board, as described*
5 *in Division 2 (commencing with Section 500), shall not be required*
6 *to be employees of the Division of Investigation and a healing arts*
7 *board may contract for investigative services provided by the*
8 *Department of Justice.*

9 ~~(e)~~

10 *(d) Nothing in this section limits the authority of, or prohibits,*
11 *investigators in the Division of Investigation in the conduct of*
12 *inspections or investigations of any licensee, or in the conduct of*
13 *investigations of any officer or employee of a board or the*
14 *department at the specific request of the director or his or her*
15 *designee.*

16 *SEC. 8. Section 159.5 of the Business and Professions Code*
17 *is amended to read:*

18 *159.5. There is in the department the Division of Investigation.*
19 *The division is in the charge of a person with the title of chief of*
20 *the division. There is in the division the Health Quality*
21 *Enforcement Unit. The primary responsibility of the unit is to*
22 *investigate complaints against licensees and applicants within the*
23 *jurisdiction of the healing arts boards described in Section 720.*

24 ~~Except as provided in Section 160, investigators who have the~~
25 ~~authority of peace officers, 16 of Chapter 1394 of the Statutes of~~
26 ~~1970, all positions for the personnel necessary to provide~~
27 ~~investigative services, as specified in subdivision (a) of Section~~
28 ~~160 Section 160 of this code and in subdivision (a) (b) of Section~~
29 ~~830.3 of the Penal Code, shall be in the division and the personnel~~
30 ~~shall be appointed by the director.~~

31 *SEC. 9. Section 505 is added to the Business and Professions*
32 *Code, to read:*

33 *505. (a) Each healing arts board shall report annually to the*
34 *department and the Legislature, not later than October 1 of each*
35 *year, the following information:*

36 *(1) The total number of complaints closed or resolved without*
37 *discipline, prior to accusation.*

38 *(2) The total number of complaints and reports referred for*
39 *formal investigation.*

1 (3) *The total number of accusations filed and the final*
2 *disposition of accusations through the board and court review,*
3 *respectively.*

4 (4) *The total number of citations issued, with fines and without*
5 *fines, and the number of public letters of reprimand, letters of*
6 *admonishment, or other similar action issued, if applicable.*

7 (5) *The total number of final licensee disciplinary actions taken,*
8 *by category.*

9 (6) *The total number of cases in process for more than six*
10 *months, more than 12 months, more than 18 months, and more*
11 *than 24 months, from receipt of a complaint by the board.*

12 (7) *The average time in processing complaints, from original*
13 *receipt of the complaint by the board, for all cases, at each stage*
14 *of the disciplinary process and court review, respectively.*

15 (8) *The total number of licensees in diversion or on probation*
16 *for alcohol or drug abuse, and the number of licensees successfully*
17 *completing diversion programs or probation, and failing to do so,*
18 *respectively.*

19 (9) *The total number of probation violation reports and*
20 *probation revocation filings, and their dispositions.*

21 (10) *The total number of petitions for reinstatement, and their*
22 *dispositions.*

23 (b) *“Action,” for purposes of this section, includes proceedings*
24 *brought by, or on behalf of, the healing arts board against licensees*
25 *for unprofessional conduct that have not been finally adjudicated,*
26 *as well as disciplinary actions taken against licensees.*

27 (c) *A board that complies with Section 2313 shall not be subject*
28 *to the requirements of this section.*

29 (d) *A report to be submitted pursuant to this section shall be*
30 *submitted in compliance with Section 9795 of the Government*
31 *Code.*

32 (e) *This section shall become inoperative on October 1, 2016.*

33 SEC. 10. *Section 726 of the Business and Professions Code is*
34 *amended to read:*

35 726. (a) *The commission of any act of sexual abuse,*
36 *misconduct, or relations with a patient, client, or customer*
37 *constitutes unprofessional conduct and grounds for disciplinary*
38 *action for any person licensed under this division; and under any*
39 *initiative act referred to in this division—~~and under Chapter 17~~*
40 *(commencing with Section 9000) of Division 3.*

(b) For purposes of Division 1.5 (commencing with Section 475), the commission of, and conviction for, any act of sexual abuse, sexual misconduct, or attempted sexual misconduct, whether or not with a patient, or conviction of a felony requiring registration pursuant to Section 290 of the Penal Code, shall be considered a crime substantially related to the qualifications, functions, or duties of a licensee of a healing arts board described in this division.

~~This~~

(c) This section shall not apply to sexual contact between a ~~physician and surgeon~~ licensee and his or her spouse or person in an equivalent domestic relationship when that ~~physician and surgeon~~ licensee provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship.

SEC. 11. Section 734 is added to the Business and Professions Code, to read:

734. (a) The conviction of a charge of violating any federal statute or regulation or any statute or regulation of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct. The record of the conviction is conclusive evidence of the unprofessional conduct. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

(b) Discipline may be ordered against a licensee in accordance with the laws and regulations of the healing arts board or the board may order the denial of the license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

SEC. 12. Section 735 is added to the Business and Professions Code, to read:

735. A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.

1 *SEC. 13. Section 736 is added to the Business and Professions*
2 *Code, to read:*

3 736. (a) *The use or prescribing for or administering to himself*
4 *or herself of any controlled substance; or the use of any of the*
5 *dangerous drugs specified in Section 4022, or of alcoholic*
6 *beverages, to the extent or in such a manner as to be dangerous*
7 *or injurious to the licensee, or to any other person or to the public,*
8 *or to the extent that the use impairs the ability of the licensee to*
9 *practice safely; or conviction of any misdemeanor or felony*
10 *involving the use, consumption, or self-administration of any of*
11 *the substances referred to in this section, or conviction of any*
12 *combination thereof, constitutes unprofessional conduct. The*
13 *record of the conviction is conclusive evidence of the*
14 *unprofessional conduct.*

15 (b) *A plea or verdict of guilty or a conviction following a plea*
16 *of nolo contendere is deemed to be a conviction within the meaning*
17 *of this section. Discipline may be ordered against a licensee in*
18 *accordance with the laws and regulations of the healing arts board*
19 *or the board may order the denial of the license when the time for*
20 *appeal has elapsed or the judgment of conviction has been affirmed*
21 *on appeal or when an order granting probation is made suspending*
22 *imposition of sentence, irrespective of a subsequent order under*
23 *the provisions of Section 1203.4 of the Penal Code allowing that*
24 *person to withdraw his or her plea of guilty and to enter a plea of*
25 *not guilty, or setting aside the verdict of guilty, or dismissing the*
26 *accusation, complaint, information, or indictment.*

27 (c) *A violation of subdivision (a) is a misdemeanor, and upon*
28 *conviction shall be punished by a fine of up to ten thousand dollars*
29 *(\$10,000), or by imprisonment in the county jail of up to six*
30 *months, or by both that fine and imprisonment.*

31 *SEC. 14. Section 737 is added to the Business and Professions*
32 *Code, to read:*

33 737. *It shall be unprofessional conduct for any licensee of a*
34 *healing arts board to fail to comply with the following:*

35 (a) *Furnish information in a timely manner to the healing arts*
36 *board or the board's investigators or representatives if requested*
37 *by the board.*

38 (b) *Cooperate and participate in any investigation or other*
39 *regulatory or disciplinary proceeding pending against the licensee.*
40 *However, this subdivision shall not be construed to deprive a*

1 *licensee of any privilege guaranteed by the Fifth Amendment to*
2 *the Constitution of the United States, or any other constitutional*
3 *or statutory privileges. This subdivision shall not be construed to*
4 *require a licensee to cooperate with a request that requires him*
5 *or her to waive any constitutional or statutory privilege or to*
6 *comply with a request for information or other matters within an*
7 *unreasonable period of time in light of the time constraints of the*
8 *licensee's practice. Any exercise by a licensee of any constitutional*
9 *or statutory privilege shall not be used against the licensee in a*
10 *regulatory or disciplinary proceeding against the licensee.*

11 *SEC. 15. Section 802.1 of the Business and Professions Code*
12 *is amended to read:*

13 *802.1. (a) (1) A ~~physician and surgeon, osteopathic physician~~*
14 *~~and surgeon, and a doctor of podiatric medicine shall report either~~*
15 *~~licensee of a healing arts board described in this division shall~~*
16 *~~report any of the following to the entity that issued his or her~~*
17 *~~license:~~*

18 *(A) The bringing of an indictment or information charging a*
19 *felony against the licensee.*

20 *(B) The conviction of the licensee, including any verdict of*
21 *guilty, or plea of guilty or no contest, of any felony or*
22 *misdemeanor.*

23 *(C) Any disciplinary action taken by another licensing entity or*
24 *authority of this state or of another state or an agency of the federal*
25 *government.*

26 *(2) The report required by this subdivision shall be made in*
27 *writing within 30 days of the date of the bringing of the indictment*
28 *~~or information or of the conviction the charging of a felony, or of~~*
29 *~~the arrest, conviction, or disciplinary action.~~*

30 *(b) Failure to make a report required by this section shall be a*
31 *public offense punishable by a fine not to exceed five thousand*
32 *dollars (\$5,000) and shall constitute unprofessional conduct.*

33 *SEC. 16. Section 803 of the Business and Professions Code is*
34 *amended to read:*

35 *803. (a) Except as provided in subdivision (b), within 10 days*
36 *after a judgment by a court of this state that a person who holds a*
37 *license, certificate, or other similar authority from the Board of*
38 *~~Behavioral Sciences or from an agency mentioned in subdivision~~*
39 *~~(a) of Section 800 (except a person licensed pursuant to Chapter~~*
40 *~~3 (commencing with Section 1200)) a healing arts board described~~*

1 *in this division*, has committed a crime, or is liable for any death
2 or personal injury resulting in a judgment for an amount in excess
3 of thirty thousand dollars (\$30,000) caused by his or her
4 negligence, error or omission in practice, or his or her rendering
5 unauthorized professional services, the clerk of the court that
6 rendered the judgment shall report that fact to the agency that
7 issued the license, certificate, or other similar authority.

8 (b) For purposes of a physician and surgeon, osteopathic
9 physician and surgeon, or doctor of podiatric medicine, who is
10 liable for any death or personal injury resulting in a judgment of
11 any amount caused by his or her negligence, error or omission in
12 practice, or his or her rendering unauthorized professional services,
13 the clerk of the court that rendered the judgment shall report that
14 fact to the ~~agency~~ *board* that issued the license.

15 *SEC. 17. Section 803.5 of the Business and Professions Code*
16 *is amended to read:*

17 803.5. (a) The district attorney, city attorney, or other
18 prosecuting agency shall notify the ~~Medical Board of California,~~
19 ~~the Osteopathic Medical Board of California, the California Board~~
20 ~~of Podiatric Medicine, the State Board of Chiropractic Examiners,~~
21 ~~or other appropriate allied health board,~~ *appropriate healing arts*
22 *board described in this division* and the clerk of the court in which
23 the charges have been filed, of any filings against a licensee of
24 that board charging a felony immediately upon obtaining
25 information that the defendant is a licensee of the board. The notice
26 shall identify the licensee and describe the crimes charged and the
27 facts alleged. The prosecuting agency shall also notify the clerk
28 of the court in which the action is pending that the defendant is a
29 licensee, and the clerk shall record prominently in the file that the
30 defendant holds a license from one of the boards described above.

31 (b) The clerk of the court in which a licensee of one of the
32 boards is convicted of a crime shall, within 48 hours after the
33 conviction, transmit a certified copy of the record of conviction
34 to the applicable board.

35 *SEC. 18. Section 803.6 of the Business and Professions Code*
36 *is amended to read:*

37 803.6. (a) The clerk of the court shall transmit any felony
38 preliminary hearing transcript concerning a defendant licensee to
39 the ~~Medical Board of California, the Osteopathic Medical Board~~
40 ~~of California, the California Board of Podiatric Medicine, or other~~

1 ~~appropriate allied health board, as applicable, appropriate healing~~
2 ~~arts board described in this division~~ where the total length of the
3 transcript is under 800 pages and shall notify the appropriate board
4 of any proceeding where the transcript exceeds that length.

5 (b) In any case where a probation report on a licensee is prepared
6 for a court pursuant to Section 1203 of the Penal Code, a copy of
7 that report shall be transmitted by the probation officer to the
8 ~~appropriate healing arts board~~.

9 *SEC. 19. Section 803.7 is added to the Business and Professions*
10 *Code, to read:*

11 *803.7. The Department of Justice shall ensure that subsequent*
12 *reports and subsequent disposition information authorized to be*
13 *issued to any board identified in Section 101 are submitted to that*
14 *board within 30 days from notification of subsequent arrests,*
15 *convictions, or other updates.*

16 *SEC. 20. Section 803.8 is added to the Business and Professions*
17 *Code, to read:*

18 *803.8. (a) The office of the Attorney General shall serve, or*
19 *submit to a healing arts board for service, an accusation within*
20 *60 calendar days of receipt from the healing arts board.*

21 *(b) The office of the Attorney General shall serve, or submit to*
22 *a healing arts board for service, a default decision within five days*
23 *following the time period allowed for the filing of a notice of*
24 *defense.*

25 *(c) The office of the Attorney General shall set a hearing date*
26 *within three days of receiving a notice of defense, unless the*
27 *healing arts board gives the office of the Attorney General*
28 *instruction otherwise.*

29 *SEC. 21. Section 822 of the Business and Professions Code is*
30 *amended to read:*

31 *822. If a licensing agency determines that its licensee's ability*
32 *to practice his or her profession safely is impaired because the*
33 *licensee is mentally ill, or physically ill affecting competency,*
34 *the licensing agency may take action by any one of the following*
35 *methods:*

36 (a) Revoking the licensee's certificate or license.

37 (b) Suspending the licensee's right to practice.

38 (c) Placing the licensee on probation.

1 (d) Taking such other action in relation to the licentiate as the
2 licensing agency in its discretion deems proper, *including issuing*
3 *a limited or restricted license.*

4 The licensing agency shall not reinstate a revoked or suspended
5 certificate or license *or lift any restrictions or limitations* until it
6 has received competent evidence of the absence or control of the
7 condition which caused its action and until it is satisfied that with
8 due regard for the public health and safety the person's right to
9 practice his or her profession may be safely reinstated.

10 SEC. 22. *Section 857 is added to the Business and Professions*
11 *Code, to read:*

12 857. (a) *Each healing arts board, the State Board of*
13 *Chiropractic Examiners, and the Osteopathic Medical Board of*
14 *California shall query the federal National Practitioner Data Bank*
15 *prior to any of the following:*

16 (1) *Granting a license to an applicant who is currently residing*
17 *in another state.*

18 (2) *Granting a license to an applicant who is currently or has*
19 *ever been licensed as a health care practitioner in California or*
20 *another state.*

21 (3) *Granting a petition for reinstatement of a revoked or*
22 *surrendered license.*

23 (b) *Notwithstanding subdivision (a), a healing arts board, the*
24 *State Board of Chiropractic Examiners, and the Osteopathic*
25 *Medical Board of California may query the federal National*
26 *Practitioner Data Bank prior to issuing any license.*

27 (c) *A healing arts board shall charge a fee to cover the actual*
28 *cost to conduct the queries described in this section.*

29 SEC. 23. *Article 16 (commencing with Section 880) is added*
30 *to Chapter 1 of Division 2 of the Business and Professions Code,*
31 *to read:*

32
33 *Article 16. Unlicensed Practice*
34

35 880. (a) (1) *It is a public offense, punishable by a fine not to*
36 *exceed one hundred thousand dollars (\$100,000), by imprisonment*
37 *in a county jail not to exceed one year, or by both that fine and*
38 *imprisonment, for:*

1 (A) Any person who does not hold a current and valid license
2 to practice a healing art under this division to engage in that
3 practice.

4 (B) Any person who fraudulently buys, sells, or obtains a license
5 to practice any healing art in this division or to violate any
6 provision of this division.

7 (2) Subparagraph (A) of paragraph (1) shall not apply to any
8 person who is already being charged with a crime under the
9 specific healing arts licensing provisions for which he or she
10 engaged in unauthorized practice.

11 (b) Notwithstanding any other provision of law, any person who
12 is licensed under this division, and who supervises the practice of
13 a healing art by any person who does not hold a current and valid
14 license to practice that healing art under this division, is guilty of
15 a public crime, punishable by a fine not to exceed one hundred
16 thousand dollars (\$100,000), by imprisonment in a county jail not
17 to exceed one year, or by both that fine and imprisonment.

18 SEC. 24. Section 1688 is added to the Business and Professions
19 Code, to read:

20 1688. (a) The board may delegate to its executive officer the
21 authority to adopt a proposed default decision where an
22 administrative action to revoke a license has been filed and the
23 licensee has failed to file a notice of defense or to appear at the
24 hearing and a proposed default decision revoking the license has
25 been issued.

26 (b) The board may delegate to its executive officer the authority
27 to adopt a proposed settlement agreement where an administrative
28 action to revoke a license has been filed by the board and the
29 licensee has agreed to the revocation or surrender of his or her
30 license.

31 (c) The executive officer shall, at scheduled board meetings,
32 report to the board the number of proposed default decisions or
33 proposed settlement agreements adopted pursuant to this section.

34 SEC. 25. Section 1688.1 is added to the Business and
35 Professions Code, to read:

36 1688.1. (a) Notwithstanding Section 11415.60 of the
37 Government Code, the board may enter into a settlement with a
38 licensee or applicant in lieu of the issuance of an accusation or
39 statement of issues against that licensee or applicant, as applicable.

1 *disciplinary cause or reason as that term is defined in Section 805,*
2 *or whose revocation or suspension has been stayed, even if the*
3 *licensee remains subject to terms of probation or other discipline.*

4 *(g) This section shall not apply to a suspension or revocation*
5 *imposed by a state that is based solely on the prior discipline of*
6 *the licensee by another state.*

7 *(h) The other provisions of this article setting forth a procedure*
8 *for the suspension or revocation of a licensee's license or*
9 *certificate shall not apply to summary suspensions issued pursuant*
10 *to this section. If a summary suspension has been issued pursuant*
11 *to this section, the licensee may request that the hearing on the*
12 *penalty conducted pursuant to subdivision (c) be held at the same*
13 *time as a hearing on the accusation.*

14 *(i) A board that complies with Section 2310 shall not be subject*
15 *to the requirements of this section.*

16 *SEC. 72. Section 2766 is added to the Business and Professions*
17 *Code, to read:*

18 *2766. (a) The board may delegate to its executive officer the*
19 *authority to adopt a proposed default decision where an*
20 *administrative action to revoke a license has been filed and the*
21 *licensee has failed to file a notice of defense or to appear at the*
22 *hearing and a proposed default decision revoking the license has*
23 *been issued.*

24 *(b) The board may delegate to its executive officer the authority*
25 *to adopt a proposed settlement agreement where an administrative*
26 *action to revoke a license has been filed by the board and the*
27 *licensee has agreed to the revocation or surrender of his or her*
28 *license.*

29 *(c) The executive officer shall, at scheduled board meetings,*
30 *report to the board the number of proposed default decisions or*
31 *proposed settlement agreements adopted pursuant to this section.*

32 *SEC. 73. Section 2766.1 is added to the Business and*
33 *Professions Code, to read:*

34 *2766.1. (a) Notwithstanding Section 11415.60 of the*
35 *Government Code, the board may enter into a settlement with a*
36 *licensee or applicant in lieu of the issuance of an accusation or*
37 *statement of issues against that licensee or applicant, as applicable.*

38 *(b) The settlement shall include language identifying the factual*
39 *basis for the action being taken and a list of the statutes or*
40 *regulations violated.*

1 (c) A person who enters a settlement pursuant to this section is
2 not precluded from filing a petition, in the timeframe permitted by
3 law, to modify the terms of the settlement or petition for early
4 termination of probation, if probation is part of the settlement.

5 (d) Any settlement against a licensee executed pursuant to this
6 section shall be considered discipline and a public record and
7 shall be posted on the applicable board's Internet Web site. Any
8 settlement against an applicant executed pursuant to this section
9 shall be considered a public record and shall be posted on the
10 applicable board's Internet Web site.

11 (e) The executive officer shall, at scheduled board meetings,
12 report to the board the number of proposed settlement agreements
13 adopted pursuant to this section.

14 SEC. 74. Section 2766.2 is added to the Business and
15 Professions Code, to read:

16 2766.2. (a) The license of a licensee shall be suspended
17 automatically during any time that the licensee is incarcerated
18 after conviction of a felony, regardless of whether the conviction
19 has been appealed. The board shall, immediately upon receipt of
20 the certified copy of the record of conviction, determine whether
21 the license of the licensee has been automatically suspended by
22 virtue of his or her incarceration, and if so, the duration of that
23 suspension. The board shall notify the licensee in writing of the
24 license suspension and of his or her right to elect to have the issue
25 of penalty heard as provided in subdivision (d).

26 (b) Upon receipt of the certified copy of the record of conviction,
27 if after a hearing before an administrative law judge from the
28 Office of Administrative Hearings it is determined that the felony
29 for which the licensee was convicted was substantially related to
30 the qualifications, functions, or duties of a licensee, the board
31 shall suspend the license until the time for appeal has elapsed, if
32 no appeal has been taken, or until the judgment of conviction has
33 been affirmed on appeal or has otherwise become final, and until
34 further order of the board.

35 (c) Notwithstanding subdivision (b), a conviction of a charge
36 of violating any federal statute or regulation or any statute or
37 regulation of this state, regulating dangerous drugs or controlled
38 substances, or a conviction of Section 187, 261, 262, or 288 of the
39 Penal Code, shall be conclusively presumed to be substantially
40 related to the qualifications, functions, or duties of a licensee and

1 *no hearing shall be held on this issue. However, upon its own*
2 *motion or for good cause shown, the board may decline to impose*
3 *or may set aside the suspension when it appears to be in the interest*
4 *of justice to do so, with due regard to maintaining the integrity of,*
5 *and confidence in, the practice regulated by the board.*

6 *(d) (1) Discipline may be ordered against a licensee in*
7 *accordance with the statutes and regulations of the board when*
8 *the time for appeal has elapsed, the judgment of conviction has*
9 *been affirmed on appeal, or an order granting probation is made*
10 *suspending the imposition of sentence, irrespective of a subsequent*
11 *order under Section 1203.4 of the Penal Code allowing the person*
12 *to withdraw his or her plea of guilty and to enter a plea of not*
13 *guilty, setting aside the verdict of guilty, or dismissing the*
14 *accusation, complaint, information, or indictment.*

15 *(2) The issue of penalty shall be heard by an administrative law*
16 *judge from the Office of Administrative Hearings. The hearing*
17 *shall not be had until the judgment of conviction has become final*
18 *or, irrespective of a subsequent order under Section 1203.4 of the*
19 *Penal Code, an order granting probation has been made*
20 *suspending the imposition of sentence; except that a licensee may,*
21 *at his or her option, elect to have the issue of penalty decided*
22 *before those time periods have elapsed. Where the licensee so*
23 *elects, the issue of penalty shall be heard in the manner described*
24 *in subdivision (b) at the hearing to determine whether the*
25 *conviction was substantially related to the qualifications, functions,*
26 *or duties of a licensee. If the conviction of a licensee who has made*
27 *this election is overturned on appeal, any discipline ordered*
28 *pursuant to this section shall automatically cease. Nothing in this*
29 *subdivision shall prohibit the board from pursuing disciplinary*
30 *action based on any cause other than the overturned conviction.*

31 *(e) The record of the proceedings resulting in a conviction,*
32 *including a transcript of the testimony in those proceedings, may*
33 *be received in evidence.*

34 *(f) Any other provision of law setting forth a procedure for the*
35 *suspension or revocation of a license issued by the board shall not*
36 *apply to proceedings conducted pursuant to this section.*

37 *SEC. 75. Section 2766.3 is added to the Business and*
38 *Professions Code, to read:*

39 *2766.3. (a) Except as otherwise provided, any proposed*
40 *decision or decision issued in accordance with the procedures set*

1 *forth in Chapter 5 (commencing with Section 11500) of Part 1 of*
2 *Division 3 of Title 2 of the Government Code, that contains any*
3 *finding of fact that the licensee engaged in any act of sexual contact*
4 *with a patient, as defined in subdivision (c) of Section 729, or any*
5 *finding that the licensee has committed a sex offense, shall contain*
6 *an order revoking the license. The proposed decision shall not*
7 *contain any order staying the revocation of the licensee.*

8 *(b) As used in this section, the term sex offense shall mean any*
9 *of the following:*

10 *(1) Any offense for which registration is required by Section*
11 *290 of the Penal Code or a finding that a person committed such*
12 *an act.*

13 *(2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1,*
14 *or 647(a) or (d) of the Penal Code or a finding that a person*
15 *committed such an act.*

16 *(3) Any attempt to commit any of the offenses specified in this*
17 *section.*

18 *(4) Any offense committed or attempted in any other state or*
19 *against the laws of the United States which, if committed or*
20 *attempted in this state, would have been punishable as one or more*
21 *of the offenses specified in this section.*

22 *SEC. 76. Section 2766.4 is added to the Business and*
23 *Professions Code, to read:*

24 *2766.4. (a) Except as otherwise provided, with regard to an*
25 *individual who is required to register as a sex offender pursuant*
26 *to Section 290 of the Penal Code, or the equivalent in another*
27 *state or territory, under military law, or under federal law, the*
28 *board shall be subject to the following requirements:*

29 *(1) The board shall deny an application by the individual for*
30 *licensure in accordance with the procedures set forth in Chapter*
31 *5 (commencing with Section 11500) of Part 1 of Division 3 of Title*
32 *2 of the Government Code.*

33 *(2) If the individual is licensed under this chapter, the board*
34 *shall promptly revoke the license of the individual in accordance*
35 *with the procedures set forth in Chapter 5 (commencing with*
36 *Section 11500) of Part 1 of Division 3 of Title 2 of the Government*
37 *Code. The board shall not stay the revocation and place the license*
38 *on probation.*

1 (3) *The board shall not reinstate or reissue the individual's*
2 *license. The board shall not issue a stay of license denial nor place*
3 *the license on probation.*

4 (b) *This section shall not apply to any of the following:*

5 (1) *An individual who has been relieved under Section 290.5 of*
6 *the Penal Code of his or her duty to register as a sex offender, or*
7 *whose duty to register has otherwise been formally terminated*
8 *under California law or the law of the jurisdiction that requires*
9 *his or her registration as a sex offender.*

10 (2) *An individual who is required to register as a sex offender*
11 *pursuant to Section 290 of the Penal Code solely because of a*
12 *misdemeanor conviction under Section 314 of the Penal Code.*
13 *However, nothing in this paragraph shall prohibit the board from*
14 *exercising its discretion to discipline a licensee under any other*
15 *provision of state law based upon the licensee's conviction under*
16 *Section 314 of the Penal Code.*

17 (3) *Any administrative adjudication proceeding under Chapter*
18 *5 (commencing with Section 11500) of Part 1 of Division 3 of Title*
19 *2 of the Government Code that is fully adjudicated prior to January*
20 *1, 2008. A petition for reinstatement of a revoked or surrendered*
21 *license shall be considered a new proceeding for purposes of this*
22 *paragraph, and the prohibition against reinstating a license to an*
23 *individual who is required to register as a sex offender shall be*
24 *applicable.*

25 SEC. 77. *Section 2766.5 is added to the Business and*
26 *Professions Code, to read:*

27 2766.5. (a) *Notwithstanding any other provision of law making*
28 *a communication between a licensee and his or her patients a*
29 *privileged communication, those provisions shall not apply to*
30 *investigations or proceedings conducted by the board. Members*
31 *of the board, deputies, employees, agents, the office of the Attorney*
32 *General, and representatives of the board shall keep in confidence*
33 *during the course of investigations the names of any patients whose*
34 *records are reviewed and may not disclose or reveal those names,*
35 *except as is necessary during the course of an investigation, unless*
36 *and until proceedings are instituted. The authority under this*
37 *subdivision to examine records of patients in the office of a licensee*
38 *is limited to records of patients who have complained to the board*
39 *about that licensee.*

1 (b) Notwithstanding any other provision of law, the Attorney
2 General and his or her investigative agents, and the board and its
3 investigators and representatives may inquire into any alleged
4 violation of the laws under the jurisdiction of the board or any
5 other federal or state law, regulation, or rule relevant to the
6 practice regulated by the board, whichever is applicable, and may
7 inspect documents relevant to those investigations in accordance
8 with the following procedures:

9 (1) Any document relevant to an investigation may be inspected,
10 and copies may be obtained, where a patient provides written
11 authorization.

12 (2) Any document relevant to the business operations of a
13 licensee, and not involving medical records attributable to
14 identifiable patients, may be inspected and copied where relevant
15 to an investigation of a licensee.

16 (c) In all cases where documents are inspected or copies of
17 those documents are received, their acquisition or review shall be
18 arranged so as not to unnecessarily disrupt the medical and
19 business operations of the licensee or of the facility where the
20 records are kept or used.

21 (d) Where certified documents are lawfully requested from
22 licensees in accordance with this section by the Attorney General
23 or his or her agents or deputies, or investigators of any board, the
24 documents shall be provided within 10 business days of receipt of
25 the request, unless the licensee is unable to provide the certified
26 documents within this time period for good cause, including, but
27 not limited to, physical inability to access the records in the time
28 allowed due to illness or travel. Failure to produce requested
29 certified documents or copies thereof, after being informed of the
30 required deadline, shall constitute unprofessional conduct. A board
31 may use its authority to cite and fine a licensee for any violation
32 of this section. This remedy is in addition to any other authority
33 of the board to sanction a licensee for a delay in producing
34 requested records.

35 (e) Searches conducted of the office or medical facility of any
36 licensee shall not interfere with the recordkeeping format or
37 preservation needs of any licensee necessary for the lawful care
38 of patients.

39 (f) The licensee shall cooperate with the board in furnishing
40 information or assistance as may be required, including, but not

1 limited to, participation in an interview with investigators or
2 representatives of the board.

3 (g) This section shall not apply to a licensee who does not have
4 access to, and control over, certified medical records or other
5 types of documents that belong to or are controlled by a health
6 facility or clinic.

7 SEC. 78. Section 2766.6 is added to the Business and
8 Professions Code, to read:

9 2766.6. (a) (1) Notwithstanding any other provision of law,
10 a licensee who fails or refuses to comply with a request for the
11 certified medical records of a patient that is accompanied by that
12 patient's written authorization for release of records to a board
13 together with a notice citing this section and describing the
14 penalties for failure to comply with this section shall be required
15 to pay to the board a civil penalty of up to one thousand dollars
16 (\$1,000) per day for each day that the documents have not been
17 produced after the 15th day, up to ten thousand dollars (\$10,000),
18 unless the licensee is unable to provide the documents within this
19 time period for good cause.

20 (2) A health care facility shall comply with a request for the
21 certified medical records of a patient that is accompanied by that
22 patient's written authorization for release of records to a board
23 together with a notice citing this section and describing the
24 penalties for failure to comply with this section. Failure to provide
25 the authorizing patient's certified medical records to the board
26 within 15 days of receiving the request, authorization, and notice
27 shall subject the health care facility to a civil penalty, payable to
28 the board, of up to one thousand dollars (\$1,000) per day for each
29 day that the documents have not been produced after the 15th day,
30 up to ten thousand dollars (\$10,000), unless the health care facility
31 is unable to provide the documents within this time period for good
32 cause. This paragraph shall not require health care facilities to
33 assist the board in obtaining the patient's authorization. The board
34 shall pay the reasonable costs of copying the certified medical
35 records, but shall not be required to make that payment prior to
36 the production of the medical records.

37 (b) (1) A licensee who fails or refuses to comply with a court
38 order, issued in the enforcement of a subpoena, mandating the
39 release of records to the board, shall pay to the board a civil
40 penalty of up to one thousand dollars (\$1,000) per day for each

1 day that the documents have not been produced after the date by
2 which the court order requires the documents to be produced, up
3 to ten thousand dollars (\$10,000), unless it is determined that the
4 order is unlawful or invalid. Any statute of limitations applicable
5 to the filing of an accusation by the board shall be tolled during
6 the period the licensee is out of compliance with the court order
7 and during any related appeals.

8 (2) Any licensee who fails or refuses to comply with a court
9 order, issued in the enforcement of a subpoena, mandating the
10 release of records to a board is guilty of a misdemeanor punishable
11 by a fine payable to the board not to exceed five thousand dollars
12 (\$5,000). The fine shall be added to the licensee's renewal fee if
13 it is not paid by the next succeeding renewal date. Any statute of
14 limitations applicable to the filing of an accusation by the board
15 shall be tolled during the period the licensee is out of compliance
16 with the court order and during any related appeals.

17 (3) A health care facility that fails or refuses to comply with a
18 court order, issued in the enforcement of a subpoena, mandating
19 the release of patient records to the board, that is accompanied
20 by a notice citing this section and describing the penalties for
21 failure to comply with this section, shall pay to the board a civil
22 penalty of up to one thousand dollars (\$1,000) per day for each
23 day that the documents have not been produced, up to ten thousand
24 dollars (\$10,000), after the date by which the court order requires
25 the documents to be produced, unless it is determined that the
26 order is unlawful or invalid. Any statute of limitations applicable
27 to the filing of an accusation by the board against a licensee shall
28 be tolled during the period the health care facility is out of
29 compliance with the court order and during any related appeals.

30 (4) Any health care facility that fails or refuses to comply with
31 a court order, issued in the enforcement of a subpoena, mandating
32 the release of records to the board is guilty of a misdemeanor
33 punishable by a fine payable to the board not to exceed five
34 thousand dollars (\$5,000). Any statute of limitations applicable
35 to the filing of an accusation by the healing arts board against a
36 licensee shall be tolled during the period the health care facility
37 is out of compliance with the court order and during any related
38 appeals.

39 (c) Multiple acts by a licensee in violation of subdivision (b)
40 shall be punishable by a fine not to exceed five thousand dollars

1 (\$5,000) or by imprisonment in a county jail not exceeding six
2 months, or by both that fine and imprisonment. Multiple acts by
3 a health care facility in violation of subdivision (b) shall be
4 punishable by a fine not to exceed five thousand dollars (\$5,000),
5 shall be reported to the State Department of Public Health, and
6 shall be considered as grounds for disciplinary action with respect
7 to licensure, including suspension or revocation of the license or
8 certificate.

9 (d) A failure or refusal of a licensee to comply with a court
10 order, issued in the enforcement of a subpoena, mandating the
11 release of records to the board constitutes unprofessional conduct
12 and is grounds for suspension or revocation of his or her license.

13 (e) Imposition of the civil penalties authorized by this section
14 shall be in accordance with the Administrative Procedure Act
15 (Chapter 5 (commencing with Section 11500) of Division 3 of Title
16 2 of the Government Code). Any civil penalties paid to, or received
17 by, the board pursuant to this section shall be deposited into the
18 fund administered by the board.

19 (f) For purposes of this section, “certified medical records”
20 means a copy of the patient’s medical records authenticated by
21 the licensee or health care facility, as appropriate, on a form
22 prescribed by the licensee’s board.

23 (g) For purposes of this section, a “health care facility” means
24 a clinic or health facility licensed or exempt from licensure
25 pursuant to Division 2 (commencing with Section 1200) of the
26 Health and Safety Code.

27 (h) If a board complies with Section 1684.1, 2225.5, or 2969,
28 that board shall not be subject to the requirements of this section.

29 (i) This section shall not apply to a licensee who does not have
30 access to, or control over, certified medical records or other types
31 of documents that belong to or are controlled by a health facility
32 or clinic.

33 SEC. 79. Section 2766.7 is added to the Business and
34 Professions Code, to read:

35 2766.7. (a) Unless otherwise provided, on or after July 1,
36 2013, the board shall post on the Internet the following
37 information, including the name and license number, in its
38 possession, custody, or control regarding every licensee for which
39 the board licenses:

1 (1) With regard to the status of every license, whether or not
2 the licensee or former licensee is in good standing, subject to a
3 temporary restraining order, subject to an interim suspension
4 order, subject to a restriction or cease practice ordered pursuant
5 to Section 23 of the Penal Code, or subject to any of the
6 enforcement actions described in Section 803.1.

7 (2) With regard to prior discipline of a licensee, whether or not
8 the licensee or former licensee has been subject to discipline by
9 the board or by the board of another state or jurisdiction, as
10 described in Section 803.1.

11 (3) Any felony conviction of a licensee reported to the board.

12 (4) All current accusations filed by the Attorney General,
13 including those accusations that are on appeal. For purposes of
14 this paragraph, “current accusation” means an accusation that
15 has not been dismissed, withdrawn, or settled, and has not been
16 finally decided upon by an administrative law judge and the board
17 unless an appeal of that decision is pending.

18 (5) Any malpractice judgment or arbitration award imposed
19 against a licensee and reported to the healing arts board.

20 (6) Any misdemeanor conviction of a licensee that results in a
21 disciplinary action or an accusation that is not subsequently
22 withdrawn or dismissed.

23 (7) Appropriate disclaimers and explanatory statements to
24 accompany the above information, including an explanation of
25 what types of information are not disclosed. These disclaimers
26 and statements shall be developed by the healing arts board and
27 shall be adopted by regulation.

28 (b) The information provided on the Internet shall be in
29 accordance with the California Public Records Act (Chapter 3.5
30 (commencing with Section 6250) of Division 7 of Title 1 of the
31 Government Code) and the Information Practices Act of 1977
32 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4
33 of Division 3 of the Civil Code) and shall comply with the
34 Department of Consumer Affairs Guidelines for Access to Public
35 Records.

36 (c) Information provided on the Internet may not include
37 personal information, unless otherwise provided pursuant to this
38 chapter, including the home telephone number, date of birth, or
39 social security number. The information may not include the

1 licensee's address, nor the city and county of the licensee's address
2 of record.

3 SEC. 80. Section 2766.8 is added to the Business and
4 Professions Code, to read:

5 2766.8. (a) Unless otherwise provided, if a licensee possesses
6 a license or is otherwise authorized to practice in any state other
7 than California or by any agency of the federal government and
8 that license or authority is suspended or revoked outright, the
9 California license of the licensee shall be suspended automatically
10 for the duration of the suspension or revocation, unless terminated
11 or rescinded as provided in subdivision (c). The healing arts board
12 shall notify the licensee of the license suspension and of his or her
13 right to have the issue of penalty heard as provided in this section.

14 (b) Upon its own motion or for good cause shown, the board
15 may decline to impose or may set aside the suspension when it
16 appears to be in the interest of justice to do so, with due regard
17 to maintaining the integrity of, and confidence in, the specific
18 healing art.

19 (c) The issue of penalty shall be heard by an administrative law
20 judge sitting alone or with a panel of the board, in the discretion
21 of the board. A licensee may request a hearing on the penalty and
22 that hearing shall be held within 90 days from the date of the
23 request. If the order suspending or revoking the license or authority
24 to practice is overturned on appeal, any discipline ordered
25 pursuant to this section shall automatically cease. Upon a showing
26 to the administrative law judge or panel by the licensee that the
27 out-of-state action is not a basis for discipline in California, the
28 suspension shall be rescinded. If an accusation for permanent
29 discipline is not filed within 90 days of the suspension imposed
30 pursuant to this section, the suspension shall automatically
31 terminate.

32 (d) The record of the proceedings that resulted in the suspension
33 or revocation of the licensee's out-of-state license or authority to
34 practice, including a transcript of the testimony therein, may be
35 received in evidence.

36 (e) This section shall not apply to a licensee who maintains his
37 or her primary practice in California, as evidenced by having
38 maintained a practice in this state for not less than one year
39 immediately preceding the date of suspension or revocation.

1 *Nothing in this section shall preclude a licensee's license from*
2 *being suspended pursuant to any other provision of law.*

3 *(f) This section shall not apply to a licensee whose license has*
4 *been surrendered, whose only discipline is a medical staff*
5 *disciplinary action at a federal hospital and not for medical*
6 *disciplinary cause or reason as that term is defined in Section 805,*
7 *or whose revocation or suspension has been stayed, even if the*
8 *licensee remains subject to terms of probation or other discipline.*

9 *(g) This section shall not apply to a suspension or revocation*
10 *imposed by a state that is based solely on the prior discipline of*
11 *the licensee by another state.*

12 *(h) The other provisions of this article setting forth a procedure*
13 *for the suspension or revocation of a licensee's license or*
14 *certificate shall not apply to summary suspensions issued pursuant*
15 *to this section. If a summary suspension has been issued pursuant*
16 *to this section, the licensee may request that the hearing on the*
17 *penalty conducted pursuant to subdivision (c) be held at the same*
18 *time as a hearing on the accusation.*

19 *(i) A board that complies with Section 2310 shall not be subject*
20 *to the requirements of this section.*

21 *SEC. 81. Section 2879.1 is added to the Business and*
22 *Professions Code, to read:*

23 *2879.1. (a) The board may delegate to its executive officer the*
24 *authority to adopt a proposed default decision where an*
25 *administrative action to revoke a license has been filed and the*
26 *licensee has failed to file a notice of defense or to appear at the*
27 *hearing and a proposed default decision revoking the license has*
28 *been issued.*

29 *(b) The board may delegate to its executive officer the authority*
30 *to adopt a proposed settlement agreement where an administrative*
31 *action to revoke a license has been filed by the board and the*
32 *licensee has agreed to the revocation or surrender of his or her*
33 *license.*

34 *(c) The executive officer shall, at scheduled board meetings,*
35 *report to the board the number of proposed default decisions or*
36 *proposed settlement agreements adopted pursuant to this section.*

37 *SEC. 82. Section 2879.2 is added to the Business and*
38 *Professions Code, to read:*

39 *2879.2. (a) Notwithstanding Section 11415.60 of the*
40 *Government Code, the board may enter into a settlement with a*

**BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
May 18, 2011
BILL ANALYSIS**

AUTHOR:	Kehoe	BILL NUMBER:	SB 747
SPONSOR:	Equality California	BILL STATUS:	Senate APPR
SUBJECT:	Continuing Education: Lesbian, gay, bisexual, and transgender patients	DATE LAST AMENDED:	4/25/11

SUMMARY:

Existing law provides for licensing and regulation of various healing arts professions and generally requires licensees to complete continuing education courses in order to remain eligible to renew their licenses or certifications.

ANALYSIS:

This bill would require physicians and surgeons, registered nurses, certified vocational nurses, psychologists, marriage and family therapists, licensed clinical social workers, and psychiatric technicians to complete at least one course of 2 to 5 hours in duration that provides instruction on cultural competency, sensitivity, and best practices for providing adequate care to lesbian, gay, bisexual, and transgender persons, as specified. The bill would require the applicable licensing board to enforce these requirements.

Amended analysis of 4/4/11:

This bill amendment would add physician assistants, nurse practitioners, medical assistants and certified nurse assistants to the provision that requires the specified continuing education course. Also, the provisions in this bill would become effective on January 1, 2013.

Currently, the pre-licensure nursing programs are required to include cultural diversity **(1426d)** in the curriculum, thereby, addressing the proposed provisions in this bill. Also, in order for the nurse to renew his/her license, he/she must complete 30 hours of continuing education, and the learning experiences are expected to enhance the knowledge of the Registered Nurse at a level above that required for licensure **(1456c)**.

Amended analysis of 4/25/11:

This bill amendment would remove "medical assistants" from the list of healing art professionals.

This bill would have a fiscal impact on the Board of Registered Nursing (BRN). The BRN would need to promulgate regulations, audit licensees for compliance and send

confirmation or denial letters to licensees based on compliance. The cost to the BRN would be \$61,000 ongoing to support a staff person to meet the provisions in this bill.

BOARD POSITION: Oppose (4/13/11)

LEGISLATIVE COMMITTEE RECOMMENDED POSITION: Watch (3/10/11)

SUPPORT:

Equality California (Sponsor)
California Communities United Institute
California National Organization for Women
California STD Controllers Association
Dr. Susan Love Research Foundation
Gay & Lesbian Medical Association
Lesbian and Gay Psychotherapy Association of Southern California, Inc
LGBT Psychotherapists Association of the San Francisco Bay Area
Mental Health America of Northern California
Numerous health care providers and individuals

OPPOSE:

California Academy of Family Physicians
California Association of Marriage and Family Therapists
California Orthopaedic Association
California Psychological Association

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE APRIL 4, 2011

SENATE BILL

No. 747

Introduced by Senator Kehoe

February 18, 2011

An act to amend Sections 2190.1, 2811.5, 2892.5, 2915, 3524.5, 4517, 4980.54, and 4996.22 of, ~~and to add Section 2070.5 to,~~ the Business and Professions Code, and to amend Section 1337.3 of the Health and Safety Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 747, as amended, Kehoe. Continuing education: lesbian, gay, bisexual, and transgender patients.

Existing law provides for licensing and regulation of various healing arts professions and generally requires licensees to complete continuing education courses in order to remain eligible to renew their licenses or certifications. Existing law imposes various training requirements for certified nurse assistants regulated by the State Department of Public Health.

This bill would require physicians and surgeons, physician assistants, registered nurses, licensed vocational nurses, nurse practitioners, psychologists, marriage and family therapists, licensed clinical social workers, psychiatric technicians, ~~medical assistants,~~ and certified nurse assistants to complete at least one course of 2 to 5 hours in duration that provides instruction on cultural competency, sensitivity, and best practices for providing adequate care to lesbian, gay, bisexual, and transgender persons, as specified. The bill would require the applicable licensing or certifying entity to enforce these requirements. The new requirements would become effective on January 1, 2013.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 2070.5 is added to the Business and~~
2 ~~Professions Code, to read:~~
3 ~~2070.5. On and after January 1, 2013, the board shall require~~
4 ~~all medical assistants to take at least one training course that~~
5 ~~provides instruction on cultural competency, sensitivity, and best~~
6 ~~practices for providing adequate care to lesbian, gay, bisexual, and~~
7 ~~transgender persons. The course shall be between two and five~~
8 ~~hours in duration and shall contain content similar to the content~~
9 ~~described in the publication of the Gay and Lesbian Medical~~
10 ~~Association entitled "Guidelines for Care of Lesbian, Gay, Bisexual~~
11 ~~and Transgender Patients." The board may specify the required~~
12 ~~contents of the course by regulation consistent with this section.~~
13 ~~The board shall enforce this requirement in the same manner as it~~
14 ~~enforces other requirements applicable to medical assistants.~~
15 ~~SEC. 2.~~
16 ~~SECTION 1. Section 2190.1 of the Business and Professions~~
17 ~~Code is amended to read:~~
18 ~~2190.1. (a) The continuing medical education standards of~~
19 ~~Section 2190 may be met by educational activities that meet the~~
20 ~~standards of the board and serve to maintain, develop, or increase~~
21 ~~the knowledge, skills, and professional performance that a~~
22 ~~physician and surgeon uses to provide care, or improve the quality~~
23 ~~of care provided for patients, including, but not limited to,~~
24 ~~educational activities that meet any of the following criteria:~~
25 ~~(1) Have a scientific or clinical content with a direct bearing on~~
26 ~~the quality or cost-effective provision of patient care, community~~
27 ~~or public health, or preventive medicine.~~
28 ~~(2) Concern quality assurance or improvement, risk~~
29 ~~management, health facility standards, or the legal aspects of~~
30 ~~clinical medicine.~~
31 ~~(3) Concern bioethics or professional ethics.~~
32 ~~(4) Are designed to improve the physician-patient relationship.~~
33 ~~(b) (1) On and after July 1, 2006, all continuing medical~~
34 ~~education courses shall contain curriculum that includes cultural~~
35 ~~and linguistic competency in the practice of medicine.~~

(2) Notwithstanding the provisions of paragraph (1), a continuing medical education course dedicated solely to research or other issues that does not include a direct patient care component and a course offered by a continuing medical education provider that is not located in this state are not required to contain curriculum that includes cultural and linguistic competency in the practice of medicine.

(3) Associations that accredit continuing medical education courses shall develop standards before July 1, 2006, for compliance with the requirements of paragraph (1). The associations may develop these standards in conjunction with an advisory group that has expertise in cultural and linguistic competency issues.

(4) A physician and surgeon who completes a continuing education course meeting the standards developed pursuant to paragraph (3) satisfies the continuing education requirement for cultural and linguistic competency.

(c) In order to satisfy the requirements of subdivision (b), continuing medical education courses shall address at least one or a combination of the following:

(1) Cultural competency. For the purposes of this section, “cultural competency” means a set of integrated attitudes, knowledge, and skills that enables a health care professional or organization to care effectively for patients from diverse cultures, groups, and communities. At a minimum, cultural competency is recommended to include the following:

(A) Applying linguistic skills to communicate effectively with the target population.

(B) Utilizing cultural information to establish therapeutic relationships.

(C) Eliciting and incorporating pertinent cultural data in diagnosis and treatment.

(D) Understanding and applying cultural and ethnic data to the process of clinical care.

(2) Linguistic competency. For the purposes of this section, “linguistic competency” means the ability of a physician and surgeon to provide patients who do not speak English or who have limited ability to speak English, direct communication in the patient’s primary language.

(3) A review and explanation of relevant federal and state laws and regulations regarding linguistic access, including, but not

1 limited to, the federal Civil Rights Act (42 U.S.C. Sec. 1981, et
2 seq.), Executive Order 13166 of August 11, 2000, of the President
3 of the United States, and the Dymally-Alatorre Bilingual Services
4 Act (Chapter 17.5 (commencing with Section 7290) of Division
5 7 of Title 1 of the Government Code).

6 (d) On and after January 1, 2013, the board shall require all of
7 its licensees under this chapter to take at least one continuing
8 education course that provides instruction on cultural competency,
9 sensitivity, and best practices for providing adequate care to
10 lesbian, gay, bisexual, and transgender persons. Persons licensed
11 by the board before January 1, 2013, shall complete the course no
12 later January 1, 2017. Persons who are newly licensed by the board
13 on and after January 1, 2013, shall complete the course within four
14 years of their initial license issuance date or their second license
15 renewal date, whichever occurs first. The course shall be between
16 two and five hours in duration and shall contain content similar to
17 the content described in the publication of the Gay and Lesbian
18 Medical Association entitled "Guidelines for Care of Lesbian,
19 Gay, Bisexual and Transgender Patients." The board may specify
20 the required contents of the course by regulation consistent with
21 this subdivision. The board shall enforce this requirement in the
22 same manner as it enforces other required continuing education
23 requirements.

24 (e) Notwithstanding subdivision (a), educational activities that
25 are not directed toward the practice of medicine, or are directed
26 primarily toward the business aspects of medical practice,
27 including, but not limited to, medical office management, billing
28 and coding, and marketing shall not be deemed to meet the
29 continuing medical education standards for licensed physicians
30 and surgeons.

31 (f) Educational activities that meet the content standards set
32 forth in this section and are accredited by the California Medical
33 Association or the Accreditation Council for Continuing Medical
34 Education may be deemed by the Division of Licensing to meet
35 its continuing medical education standards.

36 ~~SEC. 3.~~

37 *SEC. 2.* Section 2811.5 of the Business and Professions Code
38 is amended to read:

39 2811.5. (a) Each person renewing his or her license under
40 Section 2811 shall submit proof satisfactory to the board that,

1 during the preceding two-year period, he or she has been informed
2 of the developments in the registered nurse field or in any special
3 area of practice engaged in by the licensee, occurring since the
4 last renewal thereof, either by pursuing a course or courses of
5 continuing education in the registered nurse field or relevant to
6 the practice of the licensee, and approved by the board, or by other
7 means deemed equivalent by the board.

8 (b) For purposes of this section, the board shall, by regulation,
9 establish standards for continuing education. The standards shall
10 be established in a manner to assure that a variety of alternative
11 forms of continuing education are available to licensees, including,
12 but not limited to, academic studies, in-service education, institutes,
13 seminars, lectures, conferences, workshops, extension studies, and
14 home study programs. The standards shall take cognizance of
15 specialized areas of practice. The continuing education standards
16 established by the board shall not exceed 30 hours of direct
17 participation in a course or courses approved by the board, or its
18 equivalent in the units of measure adopted by the board.

19 (c) The board shall encourage continuing education in spousal
20 or partner abuse detection and treatment. In the event the board
21 establishes a requirement for continuing education coursework in
22 spousal or partner abuse detection or treatment, that requirement
23 shall be met by each licensee within no more than four years from
24 the date the requirement is imposed.

25 (d) In establishing standards for continuing education, the board
26 shall consider including a course in the special care needs of
27 individuals and their families facing end-of-life issues, including,
28 but not limited to, all of the following:

- 29 (1) Pain and symptom management.
- 30 (2) The psycho-social dynamics of death.
- 31 (3) Dying and bereavement.
- 32 (4) Hospice care.

33 (e) In establishing standards for continuing education, the board
34 may include a course on pain management.

35 (f) This section shall not apply to licensees during the first two
36 years immediately following their initial licensure in California
37 or any other governmental jurisdiction.

38 (g) On and after January 1, 2013, the board shall require all of
39 its licensees to take at least one continuing education course that
40 provides instruction on cultural competency, sensitivity, and best

practices for providing adequate care to lesbian, gay, bisexual, and transgender persons. Persons licensed by the board before January 1, 2013, shall complete the course no later January 1, 2017. Persons who are newly licensed by the board on and after January 1, 2013, shall complete the course within four years of their initial license issuance date or their second license renewal date, whichever occurs first. The course shall be between two and five hours in duration and shall contain content similar to the content described in the publication of the Gay and Lesbian Medical Association entitled “Guidelines for Care of Lesbian, Gay, Bisexual and Transgender Patients.” The board may specify the required contents of the course by regulation consistent with this subdivision. The board shall enforce this requirement in the same manner as it enforces other required continuing education requirements.

(h) The board may, in accordance with the intent of this section, make exceptions from continuing education requirements for licensees residing in another state or country, or for reasons of health, military service, or other good cause.

(i) This section shall apply to all persons licensed under this chapter, including nurse practitioners.

~~SEC. 4.~~

SEC. 3. Section 2892.5 of the Business and Professions Code is amended to read:

2892.5. (a) Each person renewing his or her license under the provisions of this chapter shall submit proof satisfactory to the board that, during the preceding two-year period, he or she has informed himself or herself of developments in the vocational nurse field or in any special area of vocational nurse practice, occurring since the issuance of his or her certificate, or the last renewal thereof, whichever last occurred, either by pursuing a course or courses of continuing education approved by the board in the vocational nurse field or relevant to the practice of such licensee, and approved by the board; or by other means deemed equivalent by the board.

(b) For purposes of this section, the board shall, by regulation, establish standards for continuing education. The standards shall be established in a manner to assure that a variety of alternative forms of continuing education are available to licensees including, but not limited to, academic studies, in-service education, institutes, seminars, lectures, conferences, workshops, extension studies, and

1 home study programs. The standards shall take cognizance of
2 specialized areas of practice. The continuing education standards
3 established by the board shall not exceed 30 hours of direct
4 participation in a course or courses approved by the board, or its
5 equivalent in the units of measure adopted by the board.

6 (c) This section shall not apply to the first license renewal
7 following the initial issuance of a license.

8 (d) On and after January 1, 2013, the board shall require all of
9 its licensees to take at least one continuing education course that
10 provides instruction on cultural competency, sensitivity, and best
11 practices for providing adequate care to lesbian, gay, bisexual, and
12 transgender persons. Persons licensed by the board before January
13 1, 2013, shall complete the course no later January 1, 2017. Persons
14 who are newly licensed by the board on and after January 1, 2013,
15 shall complete the course within four years of their initial license
16 issuance date or their second license renewal date, whichever
17 occurs first. The course shall be between two and five hours in
18 duration and shall contain content similar to the content described
19 in the publication of the Gay and Lesbian Medical Association
20 entitled "Guidelines for Care of Lesbian, Gay, Bisexual and
21 Transgender Patients." The board may specify the required contents
22 of the course by regulation consistent with this subdivision. The
23 board shall enforce this requirement in the same manner as it
24 enforces other required continuing education requirements.

25 (e) The board may, in accordance with the intent of this section,
26 make exceptions from continuing education for licensees residing
27 in another state or country, or for reasons of health, military service,
28 or other good cause.

29 ~~SEC. 5.~~

30 *SEC. 4.* Section 2915 of the Business and Professions Code is
31 amended to read:

32 2915. (a) Except as provided in this section, on or after January
33 1, 1996, the board shall not issue any renewal license unless the
34 applicant submits proof that he or she has completed no less than
35 18 hours of approved continuing education in the preceding year.
36 On or after January 1, 1997, except as provided in this section, the
37 board shall issue renewal licenses only to those applicants who
38 have completed 36 hours of approved continuing education in the
39 preceding two years.

(b) Each person renewing his or her license issued pursuant to this chapter shall submit proof of compliance with this section to the board. False statements submitted pursuant to this section shall be a violation of Section 2970.

(c) A person applying for relicensure or for reinstatement to an active license status shall certify under penalty of perjury that he or she is in compliance with this section.

(d) (1) The continuing education requirement shall include, but shall not be limited to, courses required pursuant to Sections 25 and 28. The requirement may include courses pursuant to Sections 32 and 2914.1.

(2) (A) The board shall require a licensed psychologist who began graduate study prior to January 1, 2004, to take a continuing education course during his or her first renewal period after the operative date of this section in spousal or partner abuse assessment, detection, and intervention strategies, including community resources, cultural factors, and same gender abuse dynamics. Equivalent courses in spousal or partner abuse assessment, detection, and intervention strategies taken prior to the operative date of this section or proof of equivalent teaching or practice experience may be submitted to the board and at its discretion, may be accepted in satisfaction of this requirement.

(B) Continuing education courses taken pursuant to this paragraph shall be applied to the 36 hours of approved continuing education required under subdivision (a).

(C) A licensed psychologist whose practice does not include the direct provision of mental health services may apply to the board for an exemption from the requirements of this paragraph.

(3) Continuing education instruction approved to meet the requirements of this section shall be completed within the State of California, or shall be approved for continuing education credit by the American Psychological Association or its equivalent as approved by the board.

(e) The board may establish a policy for exceptions from the continuing education requirement of this section.

(f) The board may recognize continuing education courses that have been approved by one or more private nonprofit organizations that have at least 10 years' experience managing continuing education programs for psychologists on a statewide basis, including, but not limited to:

1 (1) Maintaining and managing related records and data.

2 (2) Monitoring and approving courses.

3 (g) The board shall adopt regulations as necessary for
4 implementation of this section.

5 (h) A licensed psychologist shall choose continuing education
6 instruction that is related to the assessment, diagnosis, and
7 intervention for the client population being served or to the fields
8 of psychology in which the psychologist intends to provide
9 services, that may include new theoretical approaches, research,
10 and applied techniques. Continuing education instruction shall
11 include required courses specified in subdivision (d).

12 (i) A psychologist shall not practice outside his or her particular
13 field or fields of competence as established by his or her education,
14 training, continuing education, and experience.

15 (j) On and after January 1, 2013, the board shall require every
16 person licensed under this chapter to take at least one continuing
17 education course that provides instruction on cultural competency,
18 sensitivity, and best practices for providing adequate care to
19 lesbian, gay, bisexual, and transgender persons. Persons licensed
20 by the board before January 1, 2013, shall complete the course no
21 later January 1, 2017. Persons who are newly licensed by the board
22 under this chapter on and after January 1, 2013, shall complete the
23 course within four years of their initial license issuance date or
24 their second license renewal date, whichever occurs first. The
25 course shall be between two and five hours in duration and shall
26 contain content similar to the content described in the publication
27 of the Gay and Lesbian Medical Association entitled "Guidelines
28 for Care of Lesbian, Gay, Bisexual and Transgender Patients."
29 The board may specify the required contents of the course by
30 regulation consistent with this subdivision. The board shall enforce
31 this requirement in the same manner as it enforces other required
32 continuing education requirements.

33 (k) The administration of this section may be funded through
34 professional license fees and continuing education provider and
35 course approval fees, or both. The fees related to the administration
36 of this section shall not exceed the costs of administering the
37 corresponding provisions of this section.

38 (l) Continuing education credit may be approved for those
39 licensees who serve as commissioners on any examination pursuant
40 to Section 2947, subject to limitations established by the board.

1 ~~SEC. 6.~~

2 *SEC. 5.* Section 3524.5 of the Business and Professions Code
3 is amended to read:

4 3524.5. (a) The committee may require a licensee to complete
5 continuing education as a condition of license renewal under
6 Section 3523 or 3524. The committee shall not require more than
7 50 hours of continuing education every two years. The committee
8 shall, as it deems appropriate, accept certification by the National
9 Commission on Certification of Physician Assistants (NCCPA),
10 or another qualified certifying body, as determined by the
11 committee, as evidence of compliance with continuing education
12 requirements.

13 (b) On and after January 1, 2013, the board shall require all of
14 its licensees under this chapter to take at least one continuing
15 education course that provides instruction on cultural competency,
16 sensitivity, and best practices for providing adequate care to
17 lesbian, gay, bisexual, and transgender persons. Persons licensed
18 by the board before January 1, 2013, shall complete the course no
19 later January 1, 2017. Persons who are newly licensed by the board
20 on and after January 1, 2013, shall complete the course within four
21 years of their initial license issuance date or their second license
22 renewal date, whichever occurs first. The course shall be between
23 two and five hours in duration and shall contain content similar to
24 the content described in the publication of the Gay and Lesbian
25 Medical Association entitled “Guidelines for Care of Lesbian,
26 Gay, Bisexual and Transgender Patients.” The board may specify
27 the required contents of the course by regulation consistent with
28 this subdivision. The board shall enforce this requirement in the
29 same manner as it enforces other required continuing education
30 requirements.

31 ~~SEC. 7.~~

32 *SEC. 6.* Section 4517 of the Business and Professions Code is
33 amended to read:

34 4517. (a) The board may, in its discretion, provide for a
35 continuing education program in connection with the professional
36 functions and courses described in this chapter. The number of
37 course hours that the board may require in a continuing education
38 program shall not exceed the number of course hours prescribed
39 for licensed vocational nurses pursuant to Section 2892.5.

(b) On and after January 1, 2013, the board shall require all of its licensees to take at least one continuing education course that provides instruction on cultural competency, sensitivity, and best practices for providing adequate care to lesbian, gay, bisexual, and transgender persons. Persons licensed by the board before January 1, 2013, shall complete the course no later January 1, 2017. Persons who are newly licensed by the board on and after January 1, 2013, shall complete the course within four years of their initial license issuance date or their second license renewal date, whichever occurs first. The course shall be between two and five hours in duration and shall contain content similar to the content described in the publication of the Gay and Lesbian Medical Association entitled “Guidelines for Care of Lesbian, Gay, Bisexual and Transgender Patients.” The board may specify the required contents of the course by regulation consistent with this subdivision. The board shall enforce this requirement in the same manner as it enforces other required continuing education requirements.

~~SEC. 8.~~

SEC. 7. Section 4980.54 of the Business and Professions Code is amended to read:

4980.54. (a) The Legislature recognizes that the education and experience requirements in this chapter constitute only minimal requirements to assure that an applicant is prepared and qualified to take the licensure examinations as specified in subdivision (d) of Section 4980.40 and, if he or she passes those examinations, to begin practice.

(b) In order to continuously improve the competence of licensed marriage and family therapists and as a model for all psychotherapeutic professions, the Legislature encourages all licensees to regularly engage in continuing education related to the profession or scope of practice as defined in this chapter.

(c) Except as provided in subdivision (e), the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of marriage and family therapy in the preceding two years, as determined by the board.

(d) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of

1 required continuing education coursework for a minimum of two
2 years and shall make these records available to the board for
3 auditing purposes upon request.

4 (e) The board may establish exceptions from the continuing
5 education requirements of this section for good cause, as defined
6 by the board.

7 (f) The continuing education shall be obtained from one of the
8 following sources:

9 (1) An accredited school or state-approved school that meets
10 the requirements set forth in Section 4980.36 or 4980.37. Nothing
11 in this paragraph shall be construed as requiring coursework to be
12 offered as part of a regular degree program.

13 (2) Other continuing education providers, including, but not
14 limited to, a professional marriage and family therapist association,
15 a licensed health facility, a governmental entity, a continuing
16 education unit of an accredited four-year institution of higher
17 learning, or a mental health professional association, approved by
18 the board.

19 (g) The board shall establish, by regulation, a procedure for
20 approving providers of continuing education courses, and all
21 providers of continuing education, as described in paragraphs (1)
22 and (2) of subdivision (f), shall adhere to procedures established
23 by the board. The board may revoke or deny the right of a provider
24 to offer continuing education coursework pursuant to this section
25 for failure to comply with the requirements of this section or any
26 regulation adopted pursuant to this section.

27 (h) Training, education, and coursework by approved providers
28 shall incorporate one or more of the following:

29 (1) Aspects of the discipline that are fundamental to the
30 understanding or the practice of marriage and family therapy.

31 (2) Aspects of the discipline of marriage and family therapy in
32 which significant recent developments have occurred.

33 (3) Aspects of other disciplines that enhance the understanding
34 or the practice of marriage and family therapy.

35 (i) A system of continuing education for licensed marriage and
36 family therapists shall include courses directly related to the
37 diagnosis, assessment, and treatment of the client population being
38 served.

39 (j) On and after January 1, 2013, the board shall require all of
40 its licensees to take at least one continuing education course that

1 provides instruction on cultural competency, sensitivity, and best
2 practices for providing adequate care to lesbian, gay, bisexual, and
3 transgender persons. Persons licensed by the board before January
4 1, 2013, shall complete the course no later January 1, 2017. Persons
5 who are newly licensed by the board on and after January 1, 2013,
6 shall complete the course within four years of their initial license
7 issuance date or their second license renewal date, whichever
8 occurs first. The course shall be between two and five hours in
9 duration and shall contain content similar to the content described
10 in the publication of the Gay and Lesbian Medical Association
11 entitled “Guidelines for Care of Lesbian, Gay, Bisexual and
12 Transgender Patients.” The board may specify the required contents
13 of the course by regulation consistent with this subdivision. The
14 board shall enforce this requirement in the same manner as it
15 enforces other required continuing education requirements.

16 (k) The board shall, by regulation, fund the administration of
17 this section through continuing education provider fees to be
18 deposited in the Behavioral Sciences Fund. The fees related to the
19 administration of this section shall be sufficient to meet, but shall
20 not exceed, the costs of administering the corresponding provisions
21 of this section. For purposes of this subdivision, a provider of
22 continuing education as described in paragraph (1) of subdivision
23 (f) shall be deemed to be an approved provider.

24 (l) The continuing education requirements of this section shall
25 comply fully with the guidelines for mandatory continuing
26 education established by the Department of Consumer Affairs
27 pursuant to Section 166.

28 ~~SEC. 9.~~

29 *SEC. 8.* Section 4996.22 of the Business and Professions Code
30 is amended to read:

31 4996.22. (a) (1) Except as provided in subdivision (c), the
32 board shall not renew any license pursuant to this chapter unless
33 the applicant certifies to the board, on a form prescribed by the
34 board, that he or she has completed not less than 36 hours of
35 approved continuing education in or relevant to the field of social
36 work in the preceding two years, as determined by the board.

37 (2) The board shall not renew any license of an applicant who
38 began graduate study prior to January 1, 2004, pursuant to this
39 chapter unless the applicant certifies to the board that during the
40 applicant’s first renewal period after the operative date of this

1 section, he or she completed a continuing education course in
2 spousal or partner abuse assessment, detection, and intervention
3 strategies, including community resources, cultural factors, and
4 same gender abuse dynamics. On and after January 1, 2005, the
5 course shall consist of not less than seven hours of training.
6 Equivalent courses in spousal or partner abuse assessment,
7 detection, and intervention strategies taken prior to the operative
8 date of this section or proof of equivalent teaching or practice
9 experience may be submitted to the board and at its discretion,
10 may be accepted in satisfaction of this requirement. Continuing
11 education courses taken pursuant to this paragraph shall be applied
12 to the 36 hours of approved continuing education required under
13 paragraph (1).

14 (b) The board shall have the right to audit the records of any
15 applicant to verify the completion of the continuing education
16 requirement. Applicants shall maintain records of completion of
17 required continuing education coursework for a minimum of two
18 years and shall make these records available to the board for
19 auditing purposes upon request.

20 (c) The board may establish exceptions from the continuing
21 education requirement of this section for good cause as defined
22 by the board.

23 (d) The continuing education shall be obtained from one of the
24 following sources:

25 (1) An accredited school of social work, as defined in Section
26 4991.2, or a school or department of social work that is a candidate
27 for accreditation by the Commission on Accreditation of the
28 Council on Social Work Education. Nothing in this paragraph shall
29 be construed as requiring coursework to be offered as part of a
30 regular degree program.

31 (2) Other continuing education providers, including, but not
32 limited to, a professional social work association, a licensed health
33 facility, a governmental entity, a continuing education unit of an
34 accredited four-year institution of higher learning, and a mental
35 health professional association, approved by the board.

36 (e) The board shall establish, by regulation, a procedure for
37 approving providers of continuing education courses, and all
38 providers of continuing education, as described in paragraphs (1)
39 and (2) of subdivision (d), shall adhere to the procedures
40 established by the board. The board may revoke or deny the right

1 of a provider to offer continuing education coursework pursuant
2 to this section for failure to comply with the requirements of this
3 section or any regulation adopted pursuant to this section.

4 (f) Training, education, and coursework by approved providers
5 shall incorporate one or more of the following:

6 (1) Aspects of the discipline that are fundamental to the
7 understanding, or the practice, of social work.

8 (2) Aspects of the social work discipline in which significant
9 recent developments have occurred.

10 (3) Aspects of other related disciplines that enhance the
11 understanding, or the practice, of social work.

12 (g) A system of continuing education for licensed clinical social
13 workers shall include courses directly related to the diagnosis,
14 assessment, and treatment of the client population being served.

15 (h) The continuing education requirements of this section shall
16 comply fully with the guidelines for mandatory continuing
17 education established by the Department of Consumer Affairs
18 pursuant to Section 166.

19 (i) On and after January 1, 2013, the board shall require all of
20 its licensees to take at least one continuing education course that
21 provides instruction on cultural competency, sensitivity, and best
22 practices for providing adequate care to lesbian, gay, bisexual, and
23 transgender persons. Persons licensed by the board before January
24 1, 2013, shall complete the course no later January 1, 2017. Persons
25 who are newly licensed by the board on and after January 1, 2013,
26 shall complete the course within four years of their initial license
27 issuance date or their second license renewal date, whichever
28 occurs first. The course shall be between two and five hours in
29 duration and shall contain content similar to the content described
30 in the publication of the Gay and Lesbian Medical Association
31 entitled “Guidelines for Care of Lesbian, Gay, Bisexual and
32 Transgender Patients.” The board may specify the required contents
33 of the course by regulation consistent with this subdivision. The
34 board shall enforce this requirement in the same manner as it
35 enforces other required continuing education requirements.

36 (j) The board may adopt regulations as necessary to implement
37 this section.

38 (k) The board shall, by regulation, fund the administration of
39 this section through continuing education provider fees to be
40 deposited in the Behavioral Science Examiners Fund. The fees

1 related to the administration of this section shall be sufficient to
2 meet, but shall not exceed, the costs of administering the
3 corresponding provisions of this section. For purposes of this
4 subdivision, a provider of continuing education as described in
5 paragraph (1) of subdivision (d) shall be deemed to be an approved
6 provider.

7 ~~SEC. 10.~~

8 *SEC. 9.* Section 1337.3 of the Health and Safety Code is
9 amended to read:

10 1337.3. (a) The state department shall prepare and maintain
11 a list of approved training programs for nurse assistant certification.
12 The list shall include training programs conducted by skilled
13 nursing or intermediate care facilities, as well as local agencies
14 and education programs. In addition, the list shall include
15 information on whether a training center is currently training nurse
16 assistants, their competency test pass rates, and the number of
17 nurse assistants they have trained. Clinical portions of the training
18 programs may be obtained as on-the-job training, supervised by a
19 qualified director of staff development or licensed nurse.

20 (b) It shall be the duty of the state department to inspect a
21 representative sample of training programs. The state department
22 shall protect consumers and students in any training program
23 against fraud, misrepresentation, or other practices that may result
24 in improper or excessive payment of funds paid for training
25 programs. In evaluating a training center's training program, the
26 state department shall examine each training center's trainees'
27 competency test passage rate, and require each program to maintain
28 an average 60 percent test score passage rate to maintain its
29 participation in the program. The average test score passage rate
30 shall be calculated over a two-year period. If the state department
31 determines that any training program is not complying with
32 regulations or is not meeting the competency passage rate
33 requirements, notice thereof in writing shall be immediately given
34 to the program. If the program has not been brought into
35 compliance within a reasonable time, the program may be removed
36 from the approved list and notice thereof in writing given to it.
37 Programs removed under this article shall be afforded an
38 opportunity to request reinstatement of program approval at any
39 time. The state department's district offices shall inspect
40 facility-based centers as part of their annual survey.

1 (c) Notwithstanding Section 1337.1, the approved training
2 program shall consist of at least the following:

3 (1) A 16-hour orientation program to be given to newly
4 employed nurse assistants prior to providing direct patient care,
5 and consistent with federal training requirements for facilities
6 participating in the Medicare or Medicaid programs.

7 (2) (A) A certification training program consisting of at least
8 60 classroom hours of training on basic nursing skills, patient
9 safety and rights, the social and psychological problems of patients,
10 and elder abuse recognition and reporting pursuant to subdivision
11 (e) of Section 1337.1. The 60 classroom hours of training may be
12 conducted within a skilled nursing facility, an intermediate care
13 facility, or an educational institution.

14 (B) In addition to the 60 classroom hours of training required
15 under subparagraph (A), the certification program shall also consist
16 of 100 hours of supervised and on-the-job training clinical practice.
17 The 100 hours may consist of normal employment as a nurse
18 assistant under the supervision of either the director of staff
19 development or a licensed nurse qualified to provide nurse assistant
20 training who has no other assigned duties while providing the
21 training.

22 (3) At least two hours of the 60 hours of classroom training and
23 at least four hours of the 100 hours of the supervised clinical
24 training shall address the special needs of persons with
25 developmental and mental disorders, including mental retardation,
26 Alzheimer's disease, cerebral palsy, epilepsy, dementia,
27 Parkinson's disease, and mental illness.

28 (4) On and after January 1, 2013, at least two, but not more than
29 five, hours of the classroom training shall provide instruction on
30 cultural competency, sensitivity, and best practices for providing
31 adequate care to lesbian, gay, bisexual, and transgender persons.
32 Persons certified by the state department under this article before
33 January 1, 2013, shall complete the course no later January 1,
34 2017. Persons who are newly certified by the state department
35 under this article on and after January 1, 2013, shall complete the
36 course within four years of their initial certificate issuance date or
37 their second certificate renewal date, whichever occurs first. The
38 instruction shall contain content similar to the content described
39 in the publication of the Gay and Lesbian Medical Association
40 entitled "Guidelines for Care of Lesbian, Gay, Bisexual and

Transgender Patients.” The state department may specify the required contents of the course by regulation consistent with this paragraph. The state department shall enforce this requirement in the same manner as it enforces other required training requirements.

(d) The state department, in consultation with the State Department of Education and other appropriate organizations, shall develop criteria for approving training programs, that includes program content for orientation, training, inservice and the examination for testing knowledge and skills related to basic patient care services and shall develop a plan that identifies and encourages career ladder opportunities for certified nurse assistants. This group shall also recommend, and the department shall adopt, regulation changes necessary to provide for patient care when facilities utilize noncertified nurse assistants who are performing direct patient care. The requirements of this subdivision shall be established by January 1, 1989.

(e) On or before January 1, 2004, the state department, in consultation with the State Department of Education, the American Red Cross, and other appropriate organizations, shall do the following:

(1) Review the current examination for approved training programs for certified nurse assistants to ensure the accurate assessment of whether a nurse assistant has obtained the required knowledge and skills related to basic patient care services.

(2) Develop a plan that identifies and encourages career ladder opportunities for certified nurse assistants, including the application of on-the-job post-certification hours to educational credits.

(f) A skilled nursing or intermediate care facility shall determine the number of specific clinical hours within each module identified by the state department required to meet the requirements of subdivision (d), subject to subdivisions (b) and (c). The facility shall consider the specific hours recommended by the state department when adopting the certification training program required by this chapter.

(g) This article shall not apply to a program conducted by any church or denomination for the purpose of training the adherents of the church or denomination in the care of the sick in accordance with its religious tenets.

(h) The Chancellor of the California Community Colleges shall provide to the state department a standard process for approval of

- 1 college credit. The state department shall make this information
- 2 available to all training programs in the state.

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BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 7.2

DATE: May 18, 2011

ACTION REQUESTED: Information Only: Federal Legislation of Interest to the Board and other interested parties.

REQUESTED BY: Richard Rice, Chairperson
Legislative Committee

BACKGROUND: Two Nursing Organizations requested information about Federal Legislation at the January 5, 2011 Legislative Committee Meeting.

NEXT STEP: None

**FINANCIAL IMPLICATIONS,
IF ANY:** None

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Federal Legislation
May 18, 2011

Bill Number: S. 227
Title: Home Health Care Planning Improvement Act of 2011
Summary: Amends title XVIII (Medicare) of the Social Security Act to revise conditions of and limitations on payment for home health care services. Allows payment for home health services to Medicare beneficiaries by: (1) a nurse practitioner; (2) a clinical nurse specialist working in collaboration with a physician in accordance with state law; (3) a certified nurse-midwife; or (4) a physician assistant under a physician's supervision.
Location: Senate - Committee on Finance
Sponsor: Senator Susan Collins of Maine (Republican)

Bill Number: S. 56
Title: Medicaid Advanced Practice Nurses and Physician Assistants Access Act of 2011
Summary: Amends title XIX (Medicaid) of the Social Security Act to eliminate the state option to include nurse practitioners, certified nurse-midwives, and physician assistants as primary care case managers. Specifies as primary care case managers any nurse practitioner, certified nurse-midwife, or physician assistant that provides primary care case management services under a primary care case management contract. Revises the coverage of certain nurse practitioner services under the Medicaid fee-for-service program to remove the specification of certified pediatric nurse practitioner and certified family nurse practitioner in order to extend such coverage to services furnished by a nurse practitioner or clinical nurse specialist. Includes nurse practitioners, clinical nurse specialists, physician assistants, certified nurse midwives, and certified registered nurse anesthetists in the mix of service providers which Medicaid managed care organizations are required to maintain.
Location: Senate – Committee on Finance
Sponsor: Senator Daniel Inouye of Hawaii (Democrat)

Bill Number: S. 58
Related Bills: H.R. 876 authored by House Representative Lois Capps of California (Democrat)
Title: Registered Nurse Safe Staffing Act of 2011
Summary: Amends title XVIII (Medicare) of the Social Security Act to require each Medicare participating hospital to implement a hospital-wide staffing plan for nursing services furnished in the hospital.

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Federal Legislation
May 18, 2011

Requires the plan to require that an appropriate number of registered nurses provide direct patient care in each unit and on each shift of the hospital to ensure staffing levels that: (1) address the unique characteristics of the patients and hospital units; and (2) result in the delivery of safe, quality patient care consistent with specified requirements.

Requires each participating hospital to establish a hospital nurse staffing committee which shall implement and oversee such plan.

Specifies civil monetary and other penalties for violation of the requirements of this Act.

Sets forth whistleblower protections against discrimination and retaliation involving patients or employees of the hospital for their grievances, complaints, or involvement in investigations relating to such plan.

Location: Senate – Committee on Finance
Sponsor: Senator Daniel Inouye of Hawaii (Democrat)

Bill Number: S. 55
Title: Nursing School Clinics Act of 2011
Summary: Amends title XIX (Medicaid) of the Social Security Act to provide for coverage of nursing school clinic services.
Location: Senate – Committee on Finance
Sponsor: Senator Daniel Inouye of Hawaii (Democrat)

Bill Number: S. 53
Title: Doctor of Nursing Practice and Doctor of Pharmacy Dual Degree Program Act of 2011
Summary: Expresses the sense of the Senate that there should be established a Doctor of Nursing Practice (DNP) and Doctor of Pharmacy (PharmD) dual degree program, which would: (1) improve patient outcomes, (2) help health providers meet the unique needs of rural communities across the age continuum and in diverse settings, (3) enhance collaboration between DNPs and physicians regarding drug therapy, (4) provide for research concerning and the implementation of safer medication administration, (5) broaden the scope of practice for pharmacists through education and training in

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Federal Legislation
May 18, 2011

diagnosis and management of common diseases, (6) provide new employment opportunities, and (7) assist in filling the need for primary care providers with an expertise in geriatrics and pharmaceuticals. Calls for additional research and evaluation to be conducted to determine the extent to which graduates of such a program improve primary health care, address disparities, diversify the workforce, and increase quality of service for underserved populations.

Location: Senate - Committee on Health, Education, Labor, and Pensions
Sponsor: Senator Daniel Inouye of Hawaii (Democrat)